UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/1994/104/Add.14
17 October 1996

Original: ENGLISH

Substantive session of 1997

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Third periodic reports submitted by States parties under articles 16 and 17 of the Covenant

Addendum

GERMANY* **

[25 September 1996]

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* The second periodic reports concerning rights covered by articles 6 to 9 (E/1984/7/Add.3, 23 and 24) submitted by the Government of Germany were considered by the Sessional Working Group of Governmental Experts on the implementation of the International Covenant on Economic, Social and Cultural Rights at its 1985 (see E/1985/WG.1/SR.12 and 16) and 1986 (see E/1986/WG.1/SR.22-23 and 25) sessions respectively. The second periodic reports concerning rights covered by articles 10 to 12 (E/1986/4/Add.10 and 11) and articles 13 to 15 (E/1990/7/Add.12) were considered by the Committee on Economic, Social and Cultural Rights at its first (see E/C.12/1987/SR.11-12, 14 and 19-20) and at its ninth (see E/C.12/1993/SR.35, 36 and 46) sessions respectively.

** The information submitted by Germany in accordance with the guidelines concerning the initial part of reports of States parties is contained in the core document (HRI/CORE/1/Add.75).

GE.96-18779 (E)

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List of abbreviations

The following is a list of German abbreviations of laws and institutions which are used in the text, along with their translation into English.

AFG	Arbeitsförderungsgesetz Employment Promotion Act
BDA	Bundesvereinigung der Deutschen Arbeitgeberverbände Federation of German Employers' Associations
BMA	Bundesministerium für Arbeit und Sozialordnung Federal Ministry of Labour and Social Affairs
BSHG	Bundessozialhilfegesetz Federal Social Assistance Act
CGB	Christlicher Gewerkschaftsbund Federation of Christian Unions
DBB	Deutscher Beamtenbund German Civil Servants' Association
DGB	Deutscher Gewerkschaftsbund German Federation of Trade Unions
e.V.	eingetragener Verein registered association
EVS	Einkommen- und Verbraucherstichprobe Income and consumption sample
GG	Grundgesetz für die Bundesrepublik Deutschland Basic Law for the Federal Republic of Germany
GKV	Gesetzliche Krankenversicherung Statutory health insurance
VergGr	Vergütungsgruppe gemäß der Vergütungstabelle für Angestellte des öffentlichen Dienstes Salary category according to the table of salaries applicable to salaried employees of the public service

Introduction

1. The Federal Government of Germany submits its third periodic report in accordance with articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as "Covenant") to the Committee on Economic, Social and Cultural Rights. The general information on the legal and constitutional system and on the protection of human rights in Germany which preceded the previous reports will in future - according to the more recent practice - be submitted in a separate core report.

2. Since the submission of the second periodic reports in 1984, 1986 and 1990 (E/1984/7/Add.24, E/1986/4/Add.10 and E/1990/7/Add.12) the political situation has changed fundamentally, especially for Germany: in the period under review the German reunification was peacefully achieved. The general repercussions of this important event were described in paragraphs 2-11 of the fourth German report submitted in accordance with article 40 of the International Covenant on Civil and Political Rights (CCPR/C/84/Add.5). In many ways, they also affect the areas of life covered by the economic, social and cultural rights; this is why explicit reference is made to the information provided in the above-mentioned report. Any concrete repercussions of the German reunification upon individual rights laid down in the Covenant are dealt with in the present report where appropriate.

3. This report follows up on the above-mentioned previous reports (the second reports on articles 6-9, 10-11 and 13-15 of the Covenant). Insofar as the legal or factual situation has not changed since the submission of these previous reports it is described in the present report only if this appears to be required because of questions raised in the revised general guidelines regarding the form and contents of reports to be submitted in accordance with articles 16 and 17 or if it is an indispensable prerequisite for the understanding of a certain piece of information provided in the report.

I. DEVELOPMENTS AFFECTING THE GENERAL PROVISIONS OF THE COVENANT

A. Article 1 - The peoples' right of self-determination

4. In this regard, reference is made to paragraphs 12 and 13 of the fourth periodic report on the International Covenant on Civil and Political Rights.

B. Article 2 - Non-discrimination in the execution of rights

On question 1

5. Reference is made to:

(a) The statements on articles 7 and 11 in this report;

(b) The statements on article 9 (No. 6 "Foreign Pensions Legislation") in the second periodic report on articles 6 to 9 (E/1984/7/Add.24); and

(c) The following statements on question 2.

On question 2

6. In Germany all State organs at all levels, i.e. Federal Government, Länder and municipalities, are constitutionally obliged to respect the dignity of man (art. 1, para. 1 of the Basic Law) and nobody shall be discriminated against or favoured because of their sex, birth, race, language, national or social origin, faith, religious or political opinions (art. 3, para. 3, first sentence of the Basic Law). These constitutional obligations bind parliament, government, administration and the courts and are respected by public authorities. Protecting people by anti-discrimination laws is of outstanding importance in German law and politics. Germany regards it an important task to design the laws in such a manner that they offer the best possible protection against discrimination.

1. Constitutional reform

7. In the period under review the following provisions, highlighted in the following by bold print, have been introduced to supplement article 3 in the framework of the constitutional reform of 1994.

"Article 3 [Equality before the law]

"(1) All people are equal before the law.

"(2) Men and women have equal rights. **The State shall seek to ensure equal treatment of men and women and to remove existing disadvantages.**

"(3) Nobody shall be prejudiced or favoured because of their sex, birth, race, language, national or social origin, faith, religious or political opinions. **No one may be discriminated against on account of their disability.**"

8. In supplementing article 3, paragraph 2, of the Basic Law the State's task - already contained in the original version of this article - to ensure equal treatment in the meaning of creating equal starting opportunities for women and men is to be emphasized even more. The State shall now seek to ensure effective equal treatment of women and men and to remove existing disadvantages. The Second Federal Equal Treatment Act which entered into force on 1 September 1994 is a remarkable step forward towards a more efficient implementation of effective equal treatment. This Act improves positive action for women and the reconciliation of family and work in the public service. All employees in the public service and in the private sector are protected by a separate Employee Protection Act against sexual harassment at the workplace. A new Representation on Federal Committees Act provides the prerequisites for equal participation of women and men in organs within the sphere of influence of the Federal Government. By supplementing article 3, paragraph 3, of the Basic Law any discrimination on account of a (physical, mental or psychological) disability is forbidden explicitly while specific support programmes for such groups of persons are still possible.

2. Foreigners' policy

9. The two additions to the Constitution have extended the constitutional basis for the objectives laid down in article 2, paragraph 2 and article 3 of the Covenant and may thus be considered an important constitutional signal.

10. In their policy towards foreigners the Federal Government also adheres to the principles laid down in article 3 of the Basic Law. This is, inter alia, reflected by the Government's understanding of integration. Integration is a core aspect of the Federal Government's policy towards foreigners. It reflects the responsibility for the workers recruited from 1955 until the recruitment ban in 1973 and their family members who basically came to Germany after 1973 by way of family reunification. (Their total number is about 4.5 million out of a total of 6.9 million foreigners amongst whom there are 1.9 million persons from Turkey.) One must assume that the largest share of them will stay in Germany permanently.

11. The political aim is to enable them to lead a life in Germany characterized by equal treatment by removing disadvantages, improving equal opportunities - in particular with regard to their access to employment - and strengthening their self-esteem. In so doing it is not expected of the foreign citizens to adjust completely to the German way of life. Integration places demands on Germans and foreigners. Its success depends on the one hand on the preparedness of foreign families to respect the basic values of the Constitution of the Federal Republic of Germany (separation of Church and State, position of women, religious tolerance) and to adhere to the laws (e.g. by sending their children to school) as well as on their interest in learning the German language. Foreign families may, on the other hand, expect tolerance and understanding of the German population and respect for the maintenance of their cultural identity. Integration means working and living together in a spirit of cooperation at work and good community relations and in mutual respect for the other's individual characteristics.

12. The Federal Government takes comprehensive measures in order to achieve the full implementation of the rights recognized in the Covenant also for the foreign workers and their family members without discriminating against them on account of their race, colour, sex, language, faith, national or social origin. The Federal Government's positive action for integration, which is meant to be a long-term measure, contributes to preventing discrimination.

13. During the period under review* the Federal Ministry of Labour and Social Affairs spent approximately DM 90 million annually on integration measures for foreign workers and their family members and on advancing the living together of Germans and foreigners as well as on public relations work in this area.

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* Period under review: mid-1984 (mid-1986/mid-1989) until the end of 1994 (in part mid-1995).

14. Integration projects of the Federal Ministry of Labour and Social Affairs carried out throughout Germany concentrate on the following aspects:

(a) Transition from school to work of second- and third-generation foreigners;

(b) Vocational training with additional sociopedagogic support and teaching technical German where necessary as well as advancing bilingualism by means of binational training projects;

(c) Promoting German language skills by means of language courses;

(d) Integration of foreign women in women's courses and pilot projects;

(e) Integration of older foreigners while taking their specific needs into account by developing the appropriate concepts and action strategies, ending the isolation of older foreigners and awareness-raising of the public about their problems;

(f) Social counselling for foreigners and building up an assistance network in order to integrate the foreign contract workers of the former German Democratic Republic.

15. An advisory committee called the "Foreign workers" coordination unit has been established within the Federal Ministry of Labour and Social Affairs in which all important federal ministries, groups of political parties represented in the federal parliament [Bundestag], trade unions and employers' organizations, the charities and other social organizations as well as three Länder are represented. In this committee basic subjects concerned with the integration policy are discussed at the federal level. In the Federal Government-Länder committee on "policy towards foreigners" within the same Ministry the responsible federal and Länder ministries as well as the Commissioner of the Federal Government for matters relating to foreigners are represented. Furthermore the integration of foreign workers is the subject of discussion of a discussion group which meets regularly and is composed of representatives from the German Federation of Trade Unions (Deutscher Gewerkschaftsbund - DGB) and the Federation of German Employers' Associations (Bundesvereinigung der deutschen Arbeitgeberverbände - BDA) and the responsible federal ministries.

3. Protection of national minorities and other ethnic groups traditionally resident in Germany

16. Germany considers the protection of minorities to be of great importance in order to maintain peace in the community of peoples and for fruitful living together at the national level, and fulfils its obligations at this level. This is why the Federal Republic of Germany signed the Framework Convention of the Council of Europe on the protection of national minorities in Strasbourg on 11 May 1995 on the occasion of a meeting of the Committee of Ministers. On the occasion of the signing of the Convention the German Government, after

consultation with the Länder, made a declaration on the scope of application of the Convention in Germany after its ratification. The declaration reads as follows:

> "The Framework Convention contains no definition of the notion of national minorities. It is therefore up to the individual Contracting Parties to determine the groups to which it shall apply after ratification. National minorities in the Federal Republic of Germany are the Danes of German citizenship and the members of the Sorbian people with German citizenship. The Framework Convention will also be applied to members of the ethnic groups traditionally resident in Germany, the Frisians of German citizenship and the Sinti and Roma of German citizenship."

17. Declaring membership of a national minority or of the other ethnic groups traditionally resident in Germany is a voluntary decision. Membership in such a group is the personal decision of the individual; it is not registered, examined or contested by the State. There are no statistics whatsoever based on ethnic characteristics. Therefore, there are only estimates as to the number of members of national minorities and other ethnic groups traditionally resident in Germany.

(a) Legal situation of national minorities and other ethnic groups traditionally resident in Germany

18. The members of these population groups of German citizens enjoy all human and civil rights of the Basic Law without restriction. In this context, provisions ensuring the use of the minority language, the maintenance of the minority's own culture and of their own identity are of particular importance to them. Article 3, paragraph 3, first sentence, of the Basic Law contains an important element of minority protection insofar as it prohibits that a person be favoured or discriminated against on account of his race, language, national or social origin, faith or religious or political opinions.

19. As no one may be discriminated against on the basis of the above-mentioned characteristics, the legislator and administration are obliged to create the same starting conditions (equal opportunities) for members of national minorities or ethnic groups as for members of the majority population. For members of the majority people it goes without saying that they live with their culture and traditions and learn the language, and receive teaching in this language to apply the language actively. For a - numerically - rather small national minority or ethnic group in the national population the preconditions for life with an independent culture, language and identity must be secured with the help of the State. German citizens of national minorities and ethnic groups therefore need support from the State in order to have equal opportunities for their traditional culture and identity.

20. State measures serving the maintenance of the cultural identity and language of these ethnic groups therefore aim at providing them with the same rights as the majority population has. They do not violate the equal treatment principle but fulfil it insofar as discrimination is excluded. The State may take adequate measures to further equal treatment of members of national minorities and ethnic groups and of the members of the majority

people wherever this is necessary and appropriate. In this context the specific conditions of the respective minority group have to be taken into account.

21. Moreover, the constitutions of five Länder of the Federal Republic of Germany contain provisions which refer specifically to national and ethnic minorities.

22. Article 25 of the constitution of the Land Brandenburg defines the rights of the Sorbian people (Wends) as follows:

> "(1) The right of the Sorbian people to protection, maintenance and upkeep of their national identity and traditional settlement area shall be guaranteed. The federal state, local governments and the associations of local governments shall promote the implementation of this right, in particular cultural independence and efficient political participation of the Sorbian people.
>
> "(2) The federal state shall seek to ensure the cultural autonomy of the Sorbian people also beyond the borderlines of this federal state.
>
> "(3) The Sorbian people are entitled to maintaining and advancing the use of the Sorbian language and culture in public life and to teach it in schools and children's day-care centres.
>
> "(4) In the settlement area of the Sorbian people the Sorbian language shall be included in public labelling. The Sorbian flag flies the colours blue, red, white.
>
> "(5) The rights of the Sorbian people shall be defined by law. This shall ensure that Sorbian representatives participate in all matters involving the Sorbian people, especially with regard to legislation."

23. Article 18 of the constitution of the Land Mecklenburg-Western Pomerania reads: "The cultural autonomy of ethnic and national minorities and ethnic groups of citizens of German nationality shall enjoy special protection by the Land."

24. Article 5 (2) of the constitution of the free state of Saxony reads as follows: "The Land shall guarantee and protect the right of national and ethnic minorities of German citizenship to maintain their identity as well as keep their language, faith, culture and traditions." Several articles refer to the Sorbian people: article 2 (4) reads: "In the settlement area of the Sorbian people the colours and coat-of-arms of the Sorbian people, and in the Silesian part of the Land the colours and the coat-of-arms of Lower Silesia may be used along with the colours of the federal state and the federal coat-of-arms." Article 5 (2) reads as follows: "The people of the free state of Saxony comprises citizens of German, Sorbian and other ethnic origin. The Land recognizes the right to the home country." Article 6 has the following wording:

> "(1) The people resident in this Land who are of Sorbian origin are part of the people of Saxony and enjoy the same rights. The Land

guarantees and protects the right to maintaining their identity as well as to keeping and developing their traditional language, culture and traditions, in particular through schools, pre-school and cultural institutions.

"(2) Land and local government planning shall take the needs of the Sorbian people into account. The German-Sorbian character of the settlement area of the Sorbian people has to be maintained.

"(3) Cooperation among the Sorbian people across the borders of this Land, in particular with the Sorbian people in Upper and Lower Lusatia is in the interest of the Land."

25. The constitution of the Land Saxony-Anhalt states: "The cultural independence and the political participation of ethnic minorities shall be protected by the Land and local governments." (art. 37, para. 1).

26. Article 5 of the constitution of the Land Schleswig-Holstein reads as follows:

"(1) Declaring to be a member of a national minority is a voluntary act; it does not exempt the person from general civil obligations.

"(2) The cultural autonomy and the political participation of national minorities and ethnic groups shall come under the protection of this Land, local governments and the associations of local governments. The national Danish minority and the ethnic group of the Frisians are entitled to protection and support."

27. A further basis for the rights of the Danish minority is the Bonn Declaration of 29 March 1955, which was preceded by the declaration of the Schleswig-Holstein government of 26 September 1949 (Kiel Declaration).

28. With regard to the Sorbian people a protocol note on article 35 of the Unification Treaty of 31 August 1990 states:

"The Federal Republic of Germany and the German Democratic Republic declare in relation to Article 35 of the Unification Treaty:

"1. The commitment to Sorbian traditions and Sorbian culture shall be voluntary.

"2. The maintenance and further development of the Sorbian culture and the Sorbian traditions shall be guaranteed.

"3. Members of the Sorbian people and their organizations shall be free to maintain and speak the Sorbian language in public life.

"4. The general distribution of responsibilities between the Federal Government and the Länder shall remain unaffected."

29. The constitutional provisions governing the protection of national minorities and of other ethnic groups traditionally resident in Germany and

international law or treaty provisions are specified by laws, ordinances, by-laws and administrative action. Therefore, federal laws like the Federal Electoral Act and several laws adopted by the Länder contain provisions that facilitate the participation of national minorities in activities of the State and the society, the protection of national minorities and the promotion of their identity. Pursuant to the Federal Electoral Act political parties of national minorities are exempt from the 5 per cent clause with regard to elections to the federal parliament. The laws of the Länder refer to national minorities that live as a group in their traditional settlement areas. The following section deals with these minorities.

(b) Detailed description of the situation of national minorities and other ethnic groups traditionally resident in Germany

(i) The Danish minority

30. The Danish minority in the Land Schleswig-Holstein in the most northern part of the Federal Republic of Germany amounts - according to estimates - to about 50,000 persons who are resident in the part of the Land called Schleswig - mainly in the cities of Flensburg, Schleswig and Husum as well as in several other municipalities south of the German-Danish border and in the south-west of this part of Schleswig-Holstein. The share of the members of the Danish minority in the population of the individual municipalities varies considerably and extends from municipalities where there are only a few families from the Danish minority up to 20 per cent in the city of Flensburg and some smaller places. The social structure of the Danish minority very much resembles the German community's structure.

31. The members of the Danish minority all understand Danish and in their majority speak the language. All of them master the German language, too. In rural areas parts of the Danish minority speak Plattdeutsch, a Low German regional language; in the immediate border region they also speak sønderjysk, a South Jutlandish dialect, with their German neighbours.

32. The Schleswig-Holstein Electoral Act facilitates the political participation of the Danish minority in that the 5-per-cent clause is not applied to the party of the Danish minority for the purpose of the elections to the Land parliament. In the framework of the proportional equality principle, however, the number of votes corresponding to the votes cast for the last seat to be distributed pursuant to the Haare-Niemeyer procedure has to be reached.

33. The political organization of the Danish minority (and the national Frisians) is the Sydslesvigs Vælgerforening, the South Schleswig Voters' Association, with their headquarters in Flensburg. This political party has been represented by two deputies - with group status - in the Schleswig-Holstein parliament since 1996 as well as by 159 representatives in county councils, city and local parliaments. The South Schleswig Voters' Association no longer stands for the federal parliament as it does not see a chance of reaching the necessary number of votes for obtaining a mandate. Within the Federal Ministry of the Interior, however, there is an advisory committee for matters relating to the Danish minority whose chairman is the Federal Minister of the Interior and whose other members are deputies from the

political groups represented in the federal parliament, a representative from the Schleswig-Holstein government and representatives from the Danish minority. The committee meets at least once a year and deals with specific questions of domestic policy and of the development of minority rights that have a bearing on the Danish minority. The prime minister of the Land Schleswig-Holstein has appointed a "border region commissioner" who deals with minority matters.

34. The major organization of the Danish minority for folklore and cultural work is the Sydslesvigsk Forening, the South Schleswig Association, with its Dansk Generalsekretariat in Flensburg and a membership of 17,000. Furthermore, the South Schleswig Association has an additional 26 associations as affiliated members that work in all types of areas. In addition, there are also independent organizations. All of them work together in an advisory council called Det sydslesvigske Samråd, the coordination board for Danish activities.

35. The Danish minority finances its work by means of its own funds, donations from private persons and foundations as well as, to a considerable extent, by subsidies from the budgets of the Schleswig-Holstein government and German local governments of the settlement area. They also receive considerable amounts of money from the Kingdom of Denmark and from the Danish border association.

36. The South Schleswig Association devotes its efforts to the promotion of "Danish work in south Schleswig", the Danish language and Danish traditions. In addition it maintains an active relationship with Denmark and the other Nordic States and wants to keep Danish culture and the Danish way of life alive in the minority group. The association organizes Danish theatre performances and concerts, it runs community centres and provides assembly rooms, it also owns flats for senior citizens and runs senior citizens' clubs with a comprehensive leisure time programme. There is also a press service to keep the German and Danish media informed.

37. The Danish minority also publishes a Danish language paper, Flensborg Avis (part of it being written in German). Flensborg Avis is, moreover, a shareholder of Radio Schleswig-Holstein, a private broadcasting company, which broadcasts a daily Danish-language news programme. The minority considers other periodic media as unnecessary as several Danish TV and radio programmes can be received in their settlement area and any Danish newspaper and periodical can be subscribed to.

38. School and kindergarten work is organized by Dansk Skoleforening for Sydslesvig, the Danish School Association for South Schleswig. At present, it runs 53 schools covering a whole range of school types as well as 61 kindergartens. The schools are primary and general secondary schools, four intermediate secondary schools and one upper secondary school, one boarding school and an adult education boarding school. All schools are State-recognized schools run by independent institutions. The boarding school provides an opportunity to 14- to 18-year-olds to catch up on their general secondary school education or to complete the voluntary 10th year of general secondary school.

39. In general compulsory secondary school attendance is nine years and there is a possibility to complete a voluntary tenth year. The secondary schools - intermediate and upper secondary schools - accept pupils as of grades 5 and 6 (orientation level) and teach them up to grade 10 in intermediate secondary schools and up to grade 13 in upper secondary schools. The classroom language is Danish - with the exception of classes in the compulsory subject German. In the classes and courses of the school-leaving year teachers make sure that the technical terms, in particular in mathematics and natural sciences and in economics, are taught in German in order to prepare the pupils sufficiently for their future vocational training course in companies and universities where German is spoken. The final examinations are recognized in Germany and in Denmark alike.

40. Pursuant to the Schleswig-Holstein Schools Act schools operated by the Danish minority must be approved by and are subsidized upon application of the Danish Schools Association. The Danish private schools must, however, correspond to public schools with regard to their learning targets and institutions as well as with regard to the university/academic training of their teachers. They are subject to State supervision exercised by the Ministry of Cultural Affairs of the Land Schleswig-Holstein.
Schleswig-Holstein pays a subsidy towards the staff and material costs of Danish private schools which corresponds to 100 per cent of the costs incurred for a pupil in a comparable public general-education school in the respective previous year. Subsidies towards the costs of transporting pupils to and from school are granted by the Land, the counties and some local governments.

41. The language used in the kindergartens of the Danish minority is Danish as well. Many local governments grant subsidies towards the operation of these institutions. In addition the parents have to pay the normal contributions.

42. The Danish minority has its own library system with the Dansk Centralbibliothek for Sydslesvig, the Danish Central Library for South Schleswig, which is the major local library for adults and children and also comprises two libraries on wheels, a bibliographic department and a collection of various audiovisual media. The Danish Central Library has 2 main subsidiaries as well as 110 smaller subsidiaries in schools and kindergartens. It also includes a research department and archives.

43. Church life of the Danish minority takes place under the auspices of the Protestant Lutheran Dansk Kirke i Sydslesvig, the Danish Church in South Schleswig. As a registered association under German law it is a free Church that comprises 44 parishes with 24 ministers. The Danish Church in South Schleswig is independent of the northern Elbe Protestant-Lutheran Church in Germany and of the Folkekirke (People's Church) in Denmark, but cooperates closely with the organization Dansk Kirke i Udlandet (Danish Church Abroad) which has its headquarters in Odense, Denmark.

44. Sydslesvigs Danske Ungdomsforeninger, the Danish Youth Association for South Schleswig, is the umbrella organization for various youth programmes to which 77 clubs are affiliated. It operates leisure time centres and sports facilities. Amongst other clubs the Danish language amateur theatre group Det lille theater in Flensburg is also part of this association. The Danish

Youth Association, together with other national minorities in Europe, is a member of the Young People from Ethnic Groups in Europe. Its centre is the training institution Christianslyst near Schleswig.

45. The Danish Health Service operates several central social service stations and additional nurses' stations and operates a senior citizens' home as well as a number of sheltered houses and an institution for children and youth. Moreover, the members of the Danish minority have organized themselves in many other clubs, ranging from the agricultural association and housewives' clubs to citizens' associations which promote the feeling of belonging together and run hotels, restaurants and the like.

46. Apart from the schools the Land Schleswig-Holstein also supports cultural and youth work, adult education centres, the Health Service, the association of agricultural clubs as well as the political work of the Land parliamentary group of the South Schleswig Voters' Association. Subsidies are also granted to the cultural work of the Danish minority by local governments.

(ii) The Sorbian people

47. The Sorbian people is a Slavic people with its own history of over 1,000 years, two written languages (upper and lower Sorbian) and its own culture, a people who always used to live in the framework of the German State. Today's settlement area includes Upper Lusatia in the north-east of the free state of Saxony and Lower Lusatia in the south-east of the Land Brandenburg. The Sorbs living in Lower Lusatia are also called Wends. The number of persons who consider themselves to be members of the Sorbian people is not known. According to estimates there are about 60,000 Sorbs, two thirds of whom live in Saxony and one third in Brandenburg. In some municipalities of the county of Kamenz their share in the population is up to 90 per cent, in some other villages of the settlement area the majority of the inhabitants are Sorbs. In the settlement area their number corresponds to about 10 per cent of the population, in the cities, however, they represent less than two per cent of the population. About 45,000 Sorbs still speak the Sorbian language. All Sorbs also speak German.

48. In order to fulfil the constitutional obligations to protect and support the Sorbs in both Länder simple law provisions have entered into force.

49. By virtue of the Land Electoral Act of 2 March 1994 political parties, political associations or list associations of Sorbs standing for parliament in the Land Brandenburg are exempt from the 5 per cent clause.

50. In the Act on the definition of the rights of the Sorbs (Wends) in the Land Brandenburg of 7 July 1994 the rights of the Sorbs with regard to language, education, national identity, cultural independence and political participation have been defined. On the basis of this law a council for Sorbian (Wendish) matters elected by the parliament of the Land Brandenburg was established which advises parliament in Sorbian matters in particular with regard to legislation.

51. The provisions on guaranteeing the national and cultural independence of the Sorbs also have implications for the practical work of administrative and

legal institutions. Apart from German the Sorbian language is an accepted language with public authorities and administrative bodies in the German-Sorbian areas. This right is explicitly laid down in section 3 of the provisional Administrative Procedures Act for the free state of Saxony of 21 January 1993 and in section 23 of the Administrative Procedures Act for the Land Brandenburg of 26 February 1993. Moreover, the right to speak Sorbian before the courts in their home counties remains unaffected.

52. The Schools Act for the free state of Saxony of 3 July 1991 guarantees pupils the right to learn the Sorbian language and in some schools the Sorbian language is used in selected subjects in all grades. In the Land Brandenburg a school law is being prepared. At present the Preparatory Act to the First School Reform Act is still applicable. Pursuant to this Act there is the possibility to learn the Sorbian language. The promotion and support granted by the Land Brandenburg to schools and children's day-care centres run by Sorbian (Wendish) associations is equally governed by law. The Saxonian law on children's day-care centres of 10 September 1993 is the legal basis for teaching and maintaining the Sorbian language and culture in Sorbian and bilingual day-care centres in the German-Sorbian area.

53. Participation in language lessons is voluntary. At present 74 public schools teach Sorbian as a foreign language and in 13 schools Sorbian is taught to children who have Sorbian as their mother tongue. All in all approximately 5,000 pupils participate in Sorbian language tuition. In the 13 schools referred to above some of the subjects are taught in Sorbian. There is a Sorbian upper secondary school in Bautzen (upper Sorbian) and one in Cottbus (lower Sorbian). Two other upper secondary schools - in Hoyerswerda - offer classes to learn Sorbian. There are also adult education centres in the German-Sorbian area that offer language courses in Sorbian. Teacher training for teachers of the Sorbian language and for Sorbian philologists takes place at Leipzig University. Moreover, there is a Sorbian technical school providing specialized vocational training for professions in social education. In the 15 children's day-care centres in the area with high Sorbian representation the Sorbian language is the language generally used. In addition there are about 25 bilingual children's day-care centres.

54. The rights of citizens of Sorbian ethnic origin, in particular with regard to promoting the Sorbian language and culture, are also guaranteed in the county regulations for the free state of Saxony of 19 July 1993 and in the local government regulations of 21 April 1993. It is made sure that according to the legal provisions public buildings, streets and places are labelled in the two languages in the German-Sorbian area. As is the case in the prime minister's office in the free state of Saxony the Land Brandenburg has also established a special office for Sorbian matters which is attached to the ministry of science, research and culture.

55. One member of the Sorbian people has been a member of the European Parliament since the election to the European Parliament on 13 June 1994. In the elections to the Saxonian parliament on 11 September 1994 two Sorbs were elected to the Land parliament representing different political parties. In the local government elections in Saxony and Brandenburg in the year 1994 as

well as in by-elections approximately 140 members of the Sorbian people were elected as candidates representing different political parties or Sorbian voters' associations to county, city and local parliaments.

56. The umbrella organization of most Sorbian associations and institutions is called Domowina, Association of Lusatian Sorbs, whose members are 12 Sorbian organizations representing about 5,800 members. Sorbian cultural life is upheld by many institutions and clubs. The Sorbian press is of particular importance for maintaining the national identity of the Sorbs. Domowina publishes a daily in the upper Sorbian language called Serbske Nowiny (Sorbian Paper), a weekly in lower Sorbian, Nowy Casnik (New Paper), as well as the monthly cultural magazine Rozhlad (Renew), a special magazine for Sorbian teachers Serbska Sula (Sorbian School) and a children's magazine in upper and lower Sorbian. Scientific and cultural books in the Sorbian language, like school books, new and classical Sorbian fiction and poetry, and youth, children's and picture books, published with financial support from the State.

57. Research in national traditions and other research work is carried out by the Sorbian Institute. Special research areas are Sorbian social and cultural history, linguistic development, ethnology and the arts. The Sorbian cultural archives and the Sorbian library are linked to the Sorbian Institute. Macica Serbska, the Sorbian Research Society, concentrates on public relations work in this regard. Its major task is the promotion of the history, language and culture of the Sorbs in a scientific way and the distribution of knowledge about the Sorbs at home and abroad.

58. In Sorbian life the maintenance of traditions plays a special role. It is closely linked with the love for music and in particular folk songs. Traditional costumes are seldom worn on workdays but are still worn on holidays, during religious events, when going to church on Sundays and at family festivities. Approximately 120 associations, including cultural groups in schools, maintain the cultural traditions of the Sorbs in their most varied expressions, including in renowned dance groups, choirs, amateur theatre groups, traditional costumes groups and arts and crafts working groups.

59. On 19 October 1991, the free state of Saxony established, in agreement with the Land Brandenburg and the Federal Government, a foundation under public law called Stiftung für das Sorbische Volk (Foundation for the Sorbian People) which has its seat in Bautzen. It is intended to sign agreements in which the maintenance and State support for the national interests of the Sorbian people are regulated. The Foundation primarily pursues the following objectives:

(a) Supporting institutions maintaining the culture, arts and traditions of the Sorbs;

(b) Supporting and participating in projects on the documentation, publication and presentation of Sorbian arts and culture;

(c) Supporting the maintenance and further development of the Sorbian language and cultural identity in Sorbian education and research institutions;

(d) Supporting the maintenance of the Sorbian identity in the public and in occupational spheres and in the living together of the Sorbian and non-Sorbian population;

(e) Supporting projects and plans fostering understanding among peoples and cooperation with other ethnic groups and national minorities in Europe as well as supporting the historical links of the Sorbs with their Slavic neighbours in an attempt to build bridges between Germany and Eastern Europe;

(f) Participating in the development of government and other programmes concerning Sorbian matters.

60. The Foundation's work is financed by State funds which are paid in equal shares by the Federal Government on the one hand and the two Länder on the other hand. With these funds the economic survival of at present 12 institutions, inter alia, the Domowina, the German-Sorbian people's theatre, the Sorbian National Ensemble, the Domowina publishing house and the Sorbian museums in Bautzen and Cottbus is secured. Moreover, the purposeful promotion of Sorbian education and research institutions, in particular the Sorbian Institute, should be emphasized.

61. As regards broadcasting under public law in the Länder Saxony and Brandenburg, there are programmes in upper Sorbian and lower Sorbian. The Mitteldeutsche Rundfunk with its Sorbian studio in Bautzen broadcasts a three-hour radio programme in upper Sorbian on workdays; on Sundays it is a 1½-hour programme. The Ostdeutsche Rundfunk Brandenburg broadcasts a lower Sorbian programme from Cottbus from Mondays to Fridays and on Sundays; it also provides a half-hour TV programme in lower Sorbian (Sorbisches Telefenster) once a month. There is no TV programme in upper Sorbian yet. A weekly half-hour radio programme in German for Saxony with information on the Sorbs - to be broadcast by a private broadcasting company - is at present under consideration.

62. In spite of 40 years of communist rule Church life continues to play an important role with the Sorbian people. Many Sorbian traditions, in particular most customs, are by tradition closely linked to the calendar of Church holidays. Most of these customs, such as Easter rides, continue to be practised today. About a quarter of the Sorbs are Catholics while more than half are Protestants. Where there is an unbroken tradition of daily services in the Sorbian language, as in the Catholic area around Kamenz, the Sorbian language and national identity have certainly been best maintained. Protestant services in Sorbian in the Sorbian-German municipalities are held once a month; services of a more regional character are held several times a year, in particular in central Lusatia.

63. In Sorbian communities of both denominations there are Sorbian priests. There is a Sorbian Superintendent's Office which takes care of the Sorbian Christians on behalf of the Protestant-Lutheran Church of the Land Saxony and the Church of the lower Silesian Upper Lusatia in Görlitz; in the Protestant Church of the Land Brandenburg there exists a working group, "Sorbian service". An association of Sorbian Catholics, the Cyrill-Methodius-Verein, supports the Catholic parochial and cultural life of the Sorbs and publishes

the weekly Katolski Posol (The Catholic Messenger). A publication for the Protestant Sorbs is the monthly Pomhaj Bóh (Help God), which is published by the monastery of Protestant Sorbian priests.

(iii) The ethnic group of the Frisians in Germany

64. In Germany the Frisians live in the north of the Land Schleswig-Holstein and in the north-west of the Land Lower Saxony. The settlement area of the northern Frisians is situated on the west coast of Schleswig-Holstein (county of North Frisia with the islands Sylt, Föhr, Amrum as well as Heligoland). The number of persons considering themselves north Frisians is estimated at 50,000 to 60,000 persons; this corresponds to one third of the population of this region. Among them there are about 10,000 persons who speak North Frisian; another 20,000 persons understand the language. In East Frisia, in Lower Saxony, the East Frisian language has died out. Only in Saterland, near the border with the Netherlands, approximately 2,000 persons still speak Saterfrisian, a language that belongs to the East Frisian language group.

65. The majority of the North Frisians see themselves as a group within the German people with their own language, history and culture. The biggest association of the Frisians is the Nordfriesische Verein (North Frisian Association) founded in 1902. It has about 4,700 members and 15 local branch associations. The Nordfriesische Verein helps to maintain the language, culture and landscape of North Frisia. The local branch associations operate many cultural programmes. They offer language courses and holiday travels in order to learn the language and children's holiday camps; they engage in sports activities where the Frisian language is used; they support Frisian theatre performances; they actively protect nature and historical sites and maintain their local history museums. Some of these projects are subsidized from public funds.

66. A minority of North Frisians consider the Frisians as an independent people. They are organized in the Foriining for nationale Friiske (Association of National Frisians) which has about 680 members and cooperates politically with the Danish minority. Its main emphasis is advancing and maintaining the Frisian language.

67. In the parliament of the Land Schleswig-Holstein there is a body called "working group dealing with matters of the Frisian population groups in Schleswig-Holstein" whose chairman is the President of the Land parliament. This body meets several times per year in order to discuss questions concerning the Frisians with the aim of maintaining and advancing the Frisian language and culture. The working group includes representatives from the political groups of Schleswig-Holstein's parliament, members of the federal parliament whose constituencies are in North Frisia, representatives from the government of Schleswig-Holstein and representatives of the Frisian Council, the umbrella organization of the Frisians. North Frisians are also represented in local governments. In some of these bodies Frisian is used as the common language at meetings.

68. In public schools in the area of North Frisia - and at some private schools run by the Danish minority - the Frisian language is taught. As a rule this tuition is voluntary and offered in grades 3 to 4. For some years

now teaching of the Frisian language has also been introduced in kindergartens. Twenty-five teachers are teaching about 1,350 pupils at 33 schools of all types 161 hours of Frisian a week (as of 1 January 1995).

69. In 1950 the North Frisian dictionary agency was founded at the University of Kiel which, since the introduction of Frisian philology in 1978, is the only university institution doing research work in the Frisian language in the Federal Republic of Germany. At the Bildungswissenschaftliche Hochschule Flensburg (University for Educational Sciences in Flensburg) a chair for Frisian was founded in 1988 mainly to train teachers of Frisian and in order to develop a didactic approach to teaching Frisian as a school subject. In 1991 the "Seminar for the Frisian language and literature as well as related didactics" was established in order to further improve the use of Frisian in teacher training.

70. The Nordfriisk Instituut in Bredstedt as a central research institution in North Frisia is of major importance in the context of maintaining the Frisian language, culture and history. The Institute sees itself as a bridge between theory and practice, between professional and amateur researchers. It is mainly active in research and editing publications in the areas of languages, history and the local history of North Frisia. The Institute is run by the Association of the North Frisian Institute which has approximately 800 members. It runs a specialized library as well as archives and offers seminars, courses, working groups and lectures. The work of the Institute is mainly financed by subsidies from the Land Schleswig-Holstein. In addition, local governments and the Danish minority also contribute to the financing.

71. In local papers in North Frisia and in some regional magazines there are from time to time contributions in Frisian. The North German Broadcasting Station broadcasts a weekly programme (three minutes) which can only be received in certain regions. The private broadcasting station Radio-Schleswig-Holstein broadcasts a one-hour programme in Frisian once every three months.

72. The umbrella organization of the Frisians is the Frisian Council which unites the North Frisians and the East Frisians in Germany with the West Frisians in the Netherlands. Its international task is the organization of Frisian conferences and meetings between various occupational groups.

(iv) The ethnic group of German Sinti and Roma

73. The ethnic group of German Sinti and Roma is estimated to have 50,000 to 70,000 members. The majority of the German Sinti and Roma live in the capitals of the old Länder (West Germany) including Berlin and surroundings as well as in the large agglomerations in the area of Hamburg, the Rhein-Ruhr area with its centre in Düsseldorf/Cologne, the Rhein-Main and the Rhein-Neckar agglomerations. Partly German Sinti and Roma also live in large numbers in other regions in the vicinity of small towns. There are German Sinti and Roma in, for example, the medium- and small-sized towns of East Frisia, North Hesse, the Palatinate Baden and Bavaria.

74. The German Sinti and Roma had to suffer - as had all Sinti and Roma - from prosecution and genocide during the time of the Nazi rule of terror.

75. Today German Sinti and Roma are largely integrated into society; however, there are deficits in this area, too. The members of this ethnic group have organized themselves in associations to represent their interests and they have - in accordance with the federal structure of the Federal Republic of Germany - accordingly founded regional associations. Nine of these regional associations are organized under the roof of the Central Council of German Sinti and Roma which also encompasses other institutions like the Association of the Documentation and Culture Centre of German Sinti and Roma and large associations at the local level. Another regional association is not a member of the Central Council and some other local and regional offices and associations of German Sinti and Roma are not members of this Central Council either.

76. The Central Council of German Sinti and Roma, together with the associations representing the Danish minority, the Sorbian people and the ethnic group of the Frisians in Germany, is a member of the Federal Union of European Ethnic Groups, the umbrella association of national minorities and traditional (autochthonous) ethnic groups in Europe.

77. Due to the considerable geographical dispersion of the places of residence of German Sinti and Roma, the direct participation of this ethnic group in political life is more difficult than in the case of national minorities that live together as a group. The Central Council of German Sinti and Roma has learnt that some Sinti have been elected to local governments. Members of this ethnic group are as far as known neither represented in the national parliament nor in regional parliaments in the Länder. Therefore, the associations of German Sinti and Roma contact parliaments and governments, parliamentary bodies and political party bodies as well as individual politicians to advance their interests and to obtain political support. The Federal Government finances the office of the Central Council of German Sinti and Roma in Heidelberg which has five full-time staff members. Moreover, the regional associations in eight of the Länder receive subsidies from the Länder governments which make it possible for them to finance full-time staff members. In this way State funds make it possible to ensure an infrastructure to represent the interests of this ethnic group in public and to participate in public life. The Central Council and the regional associations can also rely on the work of the Documentation and Culture Centre of German Sinti and Roma; 90 per cent of its costs are financed from federal funds and 10 per cent from funds of the Land Baden-Württemberg. The Documentation and Culture Centre has 14 full-time staff members. The Centre also issues publications and organizes cultural projects. Moreover, several local associations of Sinti and Roma obtain local funds on a regular basis. Apart from the associations' work and counselling tasks the Länder and local governments subsidize cultural but also social projects. The programmes which are financed by the Federal Government and the Länder governments as well as the project support by local governments pursue the aim of supporting the participation of German Sinti and Roma in social life by maintaining their cultural identity and supporting the social integration of Sinti and Roma.

78. Supporting the "Pralipe" theatre in Mühlheim on the Ruhr which performs its plays in Romany is one of the long-term projects of the Land Northrhine-Westphalia. The Berlin Broadcasting station SFB 4 Multikulti broadcasts two 15-minute programmes in Romany per month. The Land

Baden-Würtemberg, inter alia, supports the cultural activity days of the Sinti and Roma living in Palatinate, a cooperation project with adult education centres and research projects. Hamburg supports cultural activities such as the cultural initiative "Sam Roma" which maintains and publicly presents musical traditions. Hesse has, inter alia, granted government funds for a series of events on culture, information, coordination and meeting each other for Sinti and Roma. Apart from this some local governments also promote local cultural and neighbourhood projects.

79. None of the Länder provides for tuition in Romany in their school legislation. This is also in agreement with the Central Council of German Sinti and Roma. On account of the abuse of so-called scientific research on this ethnic group - including the Romany language - at the time of national socialism and the consequent genocide of the Sinti and Roma the Central Council of German Sinti and Roma is of the opinion that the language is to be passed on solely within the ethnic group and not to be taught or learnt by "outsiders" in the State education system. This is why Romany as a mother tongue is mainly maintained as a spoken language within the family and the ethnic group. The considerable geographical dispersion of Sinti and Roma even in urban agglomerations would also make the introduction of special classes where Romany would be taught (close to) impossible.

80. The use of Romany in the public school system is therefore limited to pilot projects for (foreign) Roma children who live close to each other. The Central Council of German Sinti and Roma considers it to be of extreme importance that the existing system of State schools and schools recognized by the State and the public education system continue to be used by the children of this ethnic group without any limitations. It is therefore against separate schools for Roma or school classes reserved for Sinti and Roma. This also seems to correspond to the parents' wishes as the children of German Sinti and Roma in their majority attend local primary mainstream and secondary schools.

81. In the framework of local projects in some Länder of the Federal Republic of Germany special ways have been found to promote Sinti and Roma children at school while including their cultural traditions and their language. In Hamm and Cologne teaching materials were developed, with the participation of local Sinti and Roma, for tuition and regional training which inform about the cultural background and the history of Sinti and Roma and are meant to be used in class in order to intensify the relationship between the ethnic group and the school.

On question 3

82. The Federal Government has intensive development-policy cooperation with many countries in Africa, Asia, Latin America and East Europe. Its most important goal in this context is to contribute to improving the economic and social situation of the people and to developing their creative possibilities. In this regard there is a considerable convergence with the objectives of the Covenant and the rights covered by it.

83. The nature and extent of the development cooperation of the Federal Government are mainly determined by the framework conditions in the individual

countries. In order to determine these framework conditions indicators have been in use for several years which are also reflected in certain provisions of the Covenant: protection of minorities, freedom of organization (e.g. trade unions), poverty-oriented government policy, social indicators such as infant mortality and school enrolment ratio in primary schools, social and cultural factors.

84. Apart from protection of the environment and natural resources as well as education, the fight against poverty is a major focus and cross-cutting task of German development cooperation. A reduction of poverty essentially means fulfilment of the requirements referred to in the Covenant. An important area is the satisfaction of basic human needs such as food, housing and clothing as well as vital public services (e.g. drinking water, health and education institutions). The share of basic needs-oriented projects in the total German bilateral development commitment amounts to about 50 per cent. In the health sector basic health and in the education area basic education are particularly important fields of cooperation. The Federal Government makes an increased effort to promote social security systems in developing countries.

85. Important cooperation partners are civil society organizations in Germany and in the developing countries. They are important mediators when wishing to involve the population in the political process and intending that a free society, pursuant to Article 13, be formed.

86. The development policy of the Federal Government is thus geared towards the people, the development of their personalities and the fulfilment of their material and non-material needs - also in line with the decisions taken by the World Social Summit in Copenhagen. In this regard it corresponds to a high degree to the intentions and requirements referred to in the Covenant.

II. DEVELOPMENTS AFFECTING THE INDIVIDUAL RIGHTS GUARANTEED IN THE COVENANT

A. Article 6 - The right to work

On question 1

87. Germany has ratified the Conventions of the International Labour Organization (ILO) and of the United Nations that are mentioned in the guidelines. Consequently, reference is made to the reports on the application of these Conventions that have been submitted to the supervisory bodies concerned.

On question 2

88. Concerning sub-question (a): Although there are indications of a progressive development towards one labour market the situation of the partial labour markets of the old and the new Länder still differs even five years after reunification. It is therefore necessary to describe the development of the two partial labour markets separately. The situation and development on the German labour market is described in detail in the following paragraphs.

1. Old Länder

(a) Employment

(i) In general

89. The employment situation in the old Länder is still marked by the comparatively short but sharp economic recession in the years 1992 and 1993. It is true that the effects of recession have largely subsided on the labour market but the economic situation which is at present relatively good has not yet made itself felt in the field of employment. Thus, according to the most recent calculations of the Federal Statistical Office, the number of gainfully employed persons continued to decrease in Germany over the last 12 months. In June 1995 28,450,000 persons were still in gainful employment in the old Länder. This is about 212,000 less than the year before and about 1 million less than in June 1992. In seasonally adjusted terms the number of gainfully employed persons continued to decrease also over the last few months but this decrease has been hardly noticeable.

90. Despite this recession-related decline the number of gainfully employed persons is still at a high level. This is also illustrated by a comparison with the number of gainfully employed persons in the years 1985 and 1990. In 1990 the number of gainfully employed persons amounted to 28,480,000 in Germany and was thus on an annual average just as high as today. As against the year 1985 with 26,490,000 in gainful employment in Germany, the number of gainfully employed persons has even risen by roughly 2 million.

(ii) Employed women

91. The situation of women in the labour market is slightly more favourable at present. Due to the recession the number of employed women liable to pay social insurance contributions has also gone down over the last few years but on a considerably smaller scale than that of men. This is to be attributed to the fact that women are mainly employed in the services sector. The recession hit above all the manufacturing sector, which largely employs men. At the end of December 1994 9,740,000 women were in employment liable to the payment of social insurance contributions. This corresponds to a decrease of 0.5 per cent as against the year before. The decrease in the number of employed men liable to pay social insurance contributions was markedly stronger: 1.2 per cent less than the year before. The relatively more favourable development in the number of employed women becomes even more obvious in the long term. From December 1985 to December 1994 the number of employed women liable to pay social insurance contributions rose by about 1.5 million or 18.8 per cent whereas men accounted for an increase of only 5.7 per cent over the same period of time.

(iii) Employed foreigners

92. The number of employees of foreign nationality liable to pay social insurance contributions amounted to 2.1 million in March 1995 and was thus 1.3 per cent lower than the year before. From December 1992 to March 1995 their number went down by 20,300 or 1 per cent whereas the total number of employees liable to pay social insurance contributions fell by 3.4 per cent

over the same period. This means that the last economic recession did not affect the total number of employed foreigners in a noticeably negative way although there are considerable differences between the various sectors. A special development in the number of employed foreigners can also be seen in the long term. In December 1994 the number of employed foreigners liable to pay social insurance contributions had risen by 37.4 per cent as against December 1985. The total number of employees liable to pay social insurance contributions accounted for an increase of only 10.9 per cent.

(b) Unemployment

(i) In general

93. The fact that the employment situation is still relatively unfavourable is reflected in the number of unemployed persons. In August 1995 about 2,540,000 people were registered as unemployed in the old Länder (August 1985: about 2.2 million unemployed persons). This is about 12,000 more than in the year before. In relation to the dependent civilian labour force, the unemployment rate thus amounts to 9.2 per cent compared with 6.9 per cent in August 1991 (1,810,000 registered unemployed persons). The seasonally adjusted unemployment figures differ only slightly, which means that unemployment remains at a relatively stable but high level.

94. The continuously high level of unemployment is largely due to a considerable expansion of the supply of labour. Among other factors, reinforced migration flows from abroad have to be mentioned in this context. From 1988 to 1994 the foreign resident population rose by roughly 2.4 million which corresponds to an increase of 53 per cent. Besides, about 1.9 million German resettlers from Eastern Europe migrated into Germany in this period. The number of persons who moved from the new to the old Länder where they could be integrated into the labour market very speedily, and the increased labour force participation of women have also played a part in this context.

(ii) Long-term unemployed persons

95. A special problem in the labour market is long-term unemployment. The number of persons who had been out of work for more than one year amounted to 666,000 in September 1985; it went down to 455,000 by September 1991 but then jumped to 798,000 in September 1994. At the end of July 1995 the number of long-term unemployed persons amounted to 847,000. This means that one in three unemployed persons has been registered as unemployed for more than one year.

(iii) Women

96. In August 1995 about 1,120,000 women were out of work, which means that they had been hit less hard than men by the rise in unemployment since 1985. Compared with August 1985, the number of unemployed women rose by 8.1 per cent, that of unemployed men by 20.6 per cent. The different tendencies become even more obvious when the present figures are compared with those from 1990; an increase of 23.8 per cent for women but of 56.8 per cent for men. This is probably due to the fact that during the recession, employment was mainly reduced in the manufacturing sector whereas the services

sector, which offers good job opportunities to women, even achieved employment gains. With an unemployment rate of 9.4 per cent in August 1995, however, women continued to be affected by unemployment slightly more strongly than men (unemployment rate of men: 9.1 per cent).

(iv) Foreigners

97. In December 1995 the number of unemployed foreigners amounted to 459,000 and was thus higher than the year before (December 1994: 416,000); consequently, their unemployment rate of 18 per cent considerably exceeded the general unemployment rate of 9.7 per cent. As against December 1985 (259,000 persons), the number of unemployed foreigners has thus almost doubled.

98. This development is due, inter alia, to the fact that, because of their lower vocational qualification level, foreign workers, including those from the former recruitment countries, have simple jobs much more often than German workers, i.e. jobs that are particularly affected by the structural changes in the economy. According to studies the roughly 5.6 million job opportunities which were still available in 1991 for workers without any qualification will steadily decrease and amount to not more than 2.7 or 2.8 million by the year 2010. A further reason for the increased unemployment among foreigners may lie in the fact that foreigners who have already lived in Germany for a longer time are pushed out of the labour market by newly arriving migrants.

(v) Older unemployed persons

99. Older workers are particularly affected by unemployment, especially by long-term unemployment. At the end of August 1995 about 572,000 unemployed persons were 55 and older. This corresponds to a share of 22.5 per cent. Over the years the share of this age group in the total number of unemployed persons has risen markedly. In September 1985 the share of those aged 55 and over in the total number of unemployed persons amounted to 13.0 per cent whereas it had reached 18.4 per cent in September 1990. Among the long-term unemployed this age group accounts for roughly 37 per cent (March 1995).

(vi) Younger unemployed persons

100. In August 1995 about 341,000 younger people under 25 were registered as unemployed. The unemployment rate of this age group thus amounts to 9.4 per cent (not seasonally adjusted). It reached an all-time low of 6 per cent (about 289,000 persons) in 1990 and has gone down markedly since 1985 when it amounted to 10.3 per cent (about 552,000 persons). Compared with older workers, young persons are affected by long-term unemployment to a considerably smaller extent. In March 1995 the share of those under 25 in the total number of long-term unemployed persons amounted to only 3.1 per cent.

(vii) Severely disabled persons

101. A further problem group in the labour market are persons with health impairments and, in particular, severely disabled persons. In August 1995 154,000 unemployed persons or 6.1 per cent were severely disabled. Among the long-term unemployed, this category accounts for a share of 9.4 per cent

(September 1994). Over the years no considerable changes have occurred in the share of this group in the total number of unemployed persons. In August 1985 the share of severely disabled persons in the total number of unemployed persons amounted to 6.1 per cent and in August 1990 to 6.6 per cent.

2. New Länder (including the eastern part of Berlin)

(a) Employment

102. Meanwhile, there are signs of recovery from the trough of unemployment in the new Länder. According to first calculations of the Federal Statistical Office, 6,440,000 persons were in gainful employment in June 1995. This is 162,000 more than the year before. In sectoral terms, the large area of services and the construction sector have contributed most to this rise in employment. In regional terms, all new Länder apart from the eastern part of Berlin have benefited from this positive development.

103. After the labour force participation rate of women of working age had fallen from about 81 per cent in 1989 to 73.3 per cent in 1993, women began to benefit equally from the positive employment trends. From December 1993 to December 1994 the number of employed women liable to pay social insurance contributions rose by roughly 1.6 per cent which corresponded to the increase in the total number of employees liable to pay social insurance contributions. The share of women in the total number of employees liable to pay social insurance contributions thus amounts to 46.4 per cent.

(b) Unemployment

(i) In general

104. The positive employment trends also led to lower unemployment rates. At the end of August 1995, 1,040,000 persons were unemployed. This is 70,000 less than the year before and 140,000 less than in August 1993. In relation to the dependent labour force the unemployment rate thus amounts to 14.7 per cent after 15.5 per cent the year before and 16.2 per cent in August 1993.

105. It has to be taken into account, however, that the situation in the labour market continues to be relieved to a considerable extent by the use of active labour market policy instruments. In August 1995 about 312,000 persons were employed in job creation schemes or in schemes under section 249 h of the Employment Promotion Act, about 247,000 persons participated in vocational further training measures, about 329,000 persons were in receipt of transitional old-age benefits or pre-retirement pay and about 56,000 persons were paid short-time working allowances. Without the use of these active labour market policies the number of unemployed persons and thus also the unemployment rate would be markedly higher.

(ii) Long-term unemployed persons

106. As in the old Länder, a problem group of long-term unemployed persons also exists in the new Länder. At the end of July 1995 about 303,000 persons had been out of work for more than one year. Their share in the total number

of unemployed persons thus amounted to roughly 29 per cent. Contrary to the situation in the old Länder, the number of long-term unemployed persons has tended to decrease in the new Länder. As at September 1994, 361,000 long-term unemployed persons were registered.

(iii) Women

107. In contrast to the old Länder unemployment is a particular problem of women in the new Länder. In August 1995 about 661,000 were registered as unemployed. This means that almost two in three unemployed persons are women. With 19.3 per cent the unemployment rate of women is almost twice as high as that of men (10.4 per cent). These gender-specific trends are even more pronounced in the group of the long-term unemployed. In September 1994, 77 per cent of the long-term unemployed were women.

108. Immediately after reunification, the disproportionately high unemployment of women was largely due to the fact that they were more often employed in economic sectors which were particularly affected by unemployment such as the textile and clothing industry, the food, beverage and tobacco industry, agriculture, the chemical industry and lighter manufacturing. But now these factors are becoming less and less important. The reductions in employment have largely come to a standstill and new cases of unemployment are to a large extent evenly spread among men and women. What matters now is the fact that in general, the chances of being reintegrated into working life tend to be rather worse for women. Once out of work it is more difficult for women than for men to find a new job. With an average of 46 weeks, they were out of work almost twice as long as men in 1994. To this is added the considerably stronger willingness of women in the new Länder to engage in gainful employment.

(iv) Foreigners

109. Unemployment among foreigners is only of secondary importance in the new Länder. At the end of December 1995, just under 13,000 foreigners were registered as unemployed. This corresponded to a share in the total number of unemployed persons of only 1.1 per cent, a fact which is mainly due to the low number of foreign residents in the new Länder.

(v) Older unemployed persons

110. In August 1995, 164,000 unemployed persons were over 55. The share of those aged 55 and over in the total number of unemployed persons amounted to 15.8 per cent and was thus markedly lower than in the old Länder. It has to be taken into account, however, that at the same time about 329,000 elderly people were in receipt of transitional old-age benefits and pre-retirement pay; failing that, they would probably have been unemployed as well. It should also be noted that, contrary to the general tendency, the number of unemployed persons aged 55 and over continued to go up and that in August 1995, it had risen by 40,000 as against the year before.

(vi) Younger unemployed persons

111. In August 1995, 116,000 unemployed persons were under 25. This corresponded to a share of 11.2 per cent. At 13.0 per cent the unemployment rate of this age group is on the one hand lower than the overall unemployment rate in the new Länder but on the other hand, it is markedly higher than the relevant rate in the old Länder.

(vii) Severely disabled persons

112. In the new Länder, severely disabled persons account for a considerably lower share in the total number of unemployed persons than in the old Länder. In August 1995, about 21,000 unemployed persons or 2 per cent of all unemployed persons were severely disabled. This was merely one third of their share in the old Länder.

113. Concerning sub-question (b): As regards the aspect of "policies pursued and measures taken with a view to ensuring that there is work for all who are available for and seeking work", the following programmes and developments have to be mentioned to complement the information provided on ILO Convention No. 122 concerning Employment Policy.

114. Federal programme "Action employment assistance for long-term unemployed persons" 1995 to 1999. In March 1995 it was decided to extend the successful federal programme "Action employment assistance for long-term unemployed persons" up until the end of 1999 because of the very good results achieved so far. The financial volume of the new programme amounts to a total of DM 3,000 million. It is estimated that with the help of these funds, about 180,000 long-term unemployed persons will be placed into regular employment. Since the previously applicable guidelines proved to be worthwhile because the eligibility criteria were clearly defined and easy to handle, the core of the previous conditions remains unchanged. Employers receive a subsidy towards the gross wages payable if they take on a long-term unemployed person. As a rule, the subsidy is granted for one year. The rate of the subsidy is degressive, and it lies between 60 and 80 per cent in the first six months and between 40 and 60 per cent in the second six months depending on the previous length of unemployment. The revised guidelines for this programme also include a number of labour market policy innovations. The eased possibilities of use for women returners, the combination with the START model and the possibility of pre-recruitment periods of probation are mentioned by way of example. The guidelines for the programme apply retroactively from 1 January 1995. This ensures a smooth transition from the previously applicable to the extended programme. The results of the programme have been better than expected. By the end of August 1995, 29,100 long-term unemployed persons had been placed into permanent employment with the help of the programme.

115. ESF/federal programme "AFG-Plus". Co-financed by the European Social Fund (ESF) the ESF/federal programme "AFG-Plus" was launched in November 1994. In combination with measures under the Employment Promotion Act (Arbeitsförderungsgesetz - AFG) this programme complements and reinforces the labour market policy instruments. It focuses on long-term unemployed persons and those threatened by long-term unemployment, on young persons and women.

It fills gaps in the AFG with regard to the personal scope and the range of instruments. The most important measures of the ESF/federal programme "AFG-Plus" include training measures to provide social qualifications, socio-educational support for participants in qualification measures, the granting of subsistence allowances to participants in qualification measures who are not entitled to subsistence under the AFG and integration assistance in cases where particularly hard to place unemployed persons are taken on after having taken part in a measure under the AFG.

116. The role of active labour market policies. In 1994, about DM 52,800 million was spent on active labour market policies; in 1995, about DM 51,000 million was earmarked for this purpose. This made it possible to prevent unemployment for 1.5 million people in 1995 after a relief of the situation in the labour market of about 1,770,000 in 1994.

117. Vocational guidance. With regard to vocational guidance as an instrument of employment promotion reference is made to the information provided in the previous report. The number of young persons who are trained in one of the 370 recognized training occupations in Germany amounts to approximately 1.6 million at present. Annex 1* includes statistical data on employment and unemployment since the submission of the last report.

On questions 2 (c) to (f)

118. Reference is made to the information supplied on question 2 (a) and (b) and to the statement on article 6 in the previous report. The vocational training system in Germany is also described in the bilingual report mentioned in the comments on article 13 (annex 5).

On question 3

119. Information on the employment situation of certain groups - women, foreigners, persons with disabilities, young persons, elderly people - has already been given in the comments on question 2. As regards the employment situation of women and foreigners, reference is also made to the statements on article 2. The following additional information is provided on the employment situation of foreigners.

120. Foreigners living in Germany are affected by unemployment more strongly than Germans. Whereas the total unemployment rate amounted to 7.9 per cent and that of foreigners to 12.2 per cent in 1989, the relevant rates were 7.2 per cent and 10.9 per cent in 1990; 6.3 per cent and 10.7 per cent in 1991; 6.6 per cent and 12.2 per cent in 1992; 8.2 per cent and 15.1 per cent in 1993; 9.2 per cent and 16.2 per cent in 1994 and 8.3 per cent and 16.6 per cent in 1995. This means that on an annual average in 1995, the unemployment rate of foreigners was twice as high as that of Germans. In April 1995 the regional labour office of Berlin-Brandenburg recorded an unemployment rate for foreigners of 25.3 per cent (Bremen 23.6 per cent; Saarland 23.1 per cent; North-Rhine/Westphalia 19.7 per cent). In early 1995,

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* The annexes are available for consultation in the secretariat.

a total of 38,300 persons were registered as unemployed in the labour office district of Stuttgart, including 14,100 foreigners (36.9 per cent)

121. Of all foreigners registered as unemployed in September 1994 more than 300,000, i.e. 78.5 per cent, were without vocational qualification. This share has not changed for years. In contrast, only 40.2 per cent of the Germans registered as unemployed are without vocational qualification. Almost half of the share of unemployed foreigners without vocational qualification did not have general school-leaving certificates either (48.3 per cent; men: 49.0 per cent; women: 47.0 per cent).

122. In September 1994, more than 83 per cent of the unemployed foreigners were blue-collar workers (326,000, of whom 86.6 per cent were non-skilled workers).

123. Of almost 2.2 million employed foreigners liable to pay social insurance contributions (September 1994), less than 25 per cent had jobs as skilled workers.

124. More than 40 per cent of the foreign workers are employed in the manufacturing sector - a sector whose share in the total number of employees has gone down to one third and which continues to show a decreasing trend. In future, additional jobs will be available almost only for well-trained staff in the so-called secondary services sector. Due to qualification deficits the rising share of foreigners in the services sector is limited to the primary part: simpler jobs in trade and commerce, etc. which will also rather tend to shrink. Therefore, the qualification of foreign workers and their family members is of great importance to ensure their access to employment. Over the last few years, the Federal Government considerably expanded its integration programmes which concentrate on the transition from school into working life, and it coordinated them with measures of the Federal Employment Service. The aim is to provide as many young foreigners as possible with a qualification for working life. For this purpose, an integrated package of support measures is offered comprising German language courses, specific pre-training measures for foreigners and programmes to promote the vocational training of disadvantaged young persons.

125. Young persons who are no longer of school age are offered intensive language courses of up to 640 hours - especially if they are to take part in a pre-training or vocational training measure. These language courses are also available for foreign adults.

126. In place of the former pre-training and social integration measures for young foreigners the Federal Employment Service now offers, in the framework of its regular pre-training measures, practical pre-training measures specifically geared to the needs of foreigners. In these measures, up to 50 per cent of the time may be used to overcome deficits in the German language, in technical terminology and general education. Particularly in view of the rising number of young foreigners living in Germany, it is important to integrate them into the labour market as qualified employees. Although the number of foreign trainees has been brought up considerably over the last few years, their training participation rate has not yet reached the level of the relevant German age group. The reasons are manifold. The

efforts aimed at improving the training participation rate must therefore continue. Suitable measures are to be taken also in future to help improve the vocational qualification opportunities of young foreigners. Therefore, when moving from school into working life, they are given the support which enables them to achieve the best possible integration into the training and vocational system in the Federal Republic of Germany. The Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Sozialordnung - BMA) supports measures to promote equal opportunities in employment and occupation for foreign workers and their families living in Germany.

127. Particular emphasis is placed on supporting the transition from school into working life of the second and third generation of foreigners. In addition to the regular measures offered by the Federal Employment Service to support disadvantaged persons, young foreigners may also take part in vocational orientation and pre-training measures including the possibility to catch up on school-leaving certificates (e.g. compulsory education-leaving certificate).

128. An important starting-point is to motivate young persons and their families to opt for vocational training by organizing large-scale public relations and information work. In the context of a Turkish-German television project with the BMA as lead agency, for example, eight programmes which are meant to reach out to young Turks and their families are broadcast by the Turkish private station EUROSHOW. Each of these programmes concentrates on an occupational field, a young foreigner who has succeeded in working life is presented, and the final part is an experts' talk-show. Furthermore, vocational training is promoted in pilot projects including additional socio-educational support and technical terminology lessons, if needed.

129. Recently, considerable importance has been attached to the promotion of bilingualism by means of binational training projects (with the EU countries Greece, Spain, Italy and Portugal as well as with Turkey). They provide training in recognized occupations including practical training periods in the country of origin and additional technical terminology lessons in the respective mother tongue. This leads to increased mobility and flexibility in the labour markets of Germany and the European Union.

130. It is of great importance to improve the knowledge of the German language since language and communication are basic prerequisites for equal opportunities. The Sprachverband Deutsch für ausländische Arbeitnehmer e.V. (Registered Language Association German for Foreign Workers) which receives support from the Federal Ministry of Labour and Social Affairs organizes general language courses, intensive language courses and language courses with literacy programmes. Since 1974 more than 1.1 million foreigners have participated in these courses.

131. The integration of foreign women requires specific measures of support geared to the needs of this target group. Therefore, the BMA promotes specific courses and pilot projects for women which aim at breaking down their isolation, making them more familiar with the German language, giving them vocational orientation and increasing their motivation for vocational training.

On question 4

132. Statistical data on workers who hold more than one full-time job in Germany are not available.

On question 5

133. Reference is made to the comments on questions 1-3 and to the reports on the application of ILO Convention No. 122.

On question 6

134. This question is not applicable to Germany.

B. Article 7 - The right to healthy and favourable conditions of work

On question 1

135. Germany has ratified ILO Conventions Nos. 81, 100, 129 and 132; reference is made to the reports on the application of these Conventions.

On question 2

136. As regards matters relating to "wage fixing" (a) and "minimum wages" (b) in the private sector, reference is made to the comments on article 7 in the second periodic report of the Federal Republic of Germany on Articles 6-9 dated 20 December 1984; no changes have occurred in the meantime. The following information is provided on the public sector.

137. By virtue of the Constitution, the payment of civil servants, judges and soldiers is to be regulated by law. In accordance with the principle that the State has to provide for the civil servants' welfare, a principle which is also enshrined in the Constitution, the payment is such as to ensure civil servants, judges and soldiers together with their families an adequate standard of living.

138. The civil servants' pay rates have been raised annually. As of 1 May 1995, a single civil servant in the first step of grade A 2 (lower income bracket) receives a monthly pay of DM 2,719 including pro-rata special payments (special allowance, holiday pay). A married civil servant receives an amount of about DM 2,900. A married civil servant with one child is paid DM 3,083. To this are added net child benefits in the amount of DM 200.

139. In the new Länder the pay levels are gradually adjusted to the rates payable in the old Länder. In the period under review they were raised to 80 per cent of the "western rate" with effect from 1 July 1993, to 82 per cent with effect from 1 October 1994 and to 84 per cent with effect from 1 October 1995.

140. The wages and salaries of the public service employees are fixed in autonomous wage negotiations between the public employers of the federal, State and local governments on the one hand and the trade unions of the public

service on the other. The wage and salary levels are such as to ensure the public service employees and their families an adequate standard of living. To illustrate this, and by way of example, the table of salaries (basic salary plus local bonus) payable to salaried employees in the public service in the bargaining area West which has been applicable since 1 May 1995 is enclosed as annex 2. To these salaries are added general supplements graded according to the salary categories (Vergütungsgruppe - VergGr.) in the amount of DM 72.67 (VergGr. I-I b)/DM 193.81 (VergGr. II a/b-V b)/DM 181.70 (VergGr. V b-VIII)/DM 153.83 (VergGr. VIII-X) which are payable to all employees and, if appropriate, supplements for the performance of special functions and supplements because of the special circumstances of the work (e.g. working time and hardship allowances).

141. Men and women receive equal pay for equal work. In the collective bargaining area East (the new Länder) the public service employees receive at present 82 per cent of the pay rates applicable in the collective bargaining area West, and as from October 1995 they will be paid 84 per cent.

142. Information on the income distribution in the public service (number of public service employees broken down by wage and salary categories) is given in the survey (public service personnel; position as of 30 June 1992) enclosed as annex 3.

143. With regard to item 2 (c) (equal pay for equal work), it has to be noted that a number of factors have to be taken into account when it comes to the question of how to appraise a certain activity in relation to other activities. Since there are no objectively correct and generally acknowledged procedures for the appraisal of jobs - and especially not for all branches and regions - and since wages are also market-dependent, such questions can only be solved by way of negotiations. It is therefore the central task of the collective bargaining parties in Germany to determine the value of the work performed and thus also the equivalent pay. Because they represent the interests of those who are directly involved in working life and because of their first-hand experience, the collective bargaining partners are best suited to decide upon such questions in the context of their constitutionally guaranteed collective bargaining autonomy. As a rule, the Government does not have any possibility of influencing the decisions of the collective bargaining parties. Besides, the collective bargaining parties are bound by the Constitution when negotiating provisions to be laid down in collective agreements. In this context, reference is made to article 3, paragraph 3, sentence 1, of the Basic Law. It provides that no one may be discriminated against or favoured because of his sex, his parentage, his race, his language, his homeland and origin, his faith or his religious and political opinions.

144. Reference is also made to the German reports on the application of ILO Convention No. 100.

On question 3

145. To supplement the occupational safety and health provisions listed in the last report, reference is made to the list of important occupational safety and health provisions contained in annex 4 (Accident Prevention Report; yellow pages). As regards the categories of workers involved and the issue of

supervision, reference is made to the comments in the last report. The Accident Prevention Report of the Federal Government which is enclosed as annex 4 contains statistical information on the number, nature and frequency of accidents at work and occupational diseases. The report reveals that the number of reported accidents at work continued to decrease in 1994; as against 1993 it fell by a total of 1.5 per cent to roughly 1.9 million. This is 29,000 occupational accidents fewer than the year before. Accordingly, an average of 51 accidents at work occurred per 1,000 full-time employees in 1994 (in 1973 this figure amounted to 91), which is an all-time low since the Federal Republic of Germany was founded.

146. In 1994 the number of suspected cases of occupational disease reported to the occupational accident insurance funds was lower than in the years before. According to the Accident Prevention Report 1994, 97,900 cases were reported: this was 11,000 fewer (10.2 per cent) than the year before. The considerable increase in the number of suspected cases reported in 1993 was largely due to the fact that the list of occupational diseases had been extended with effect from 1 January 1993.

147. The number of commuting accidents reported in 1994 went down by 7.7 per cent to 246,000. In 1994, 956 persons died as a result of accidents on the way between home and work (-1.7 per cent). In 1973 the number of persons who lost their lives on their way to or from work amounted to 1,695.

148. The declining and thus positive trend in the number of accidents reported is mainly due to the continuous efforts on the part of the Government, the Berufsgenossenschaften and other occupational accident insurance funds aimed at improving occupational safety and health and safety engineering. When performing their tasks in the field of occupational safety and health, employers, works council members, safety engineers and company doctors can rely on a close network of reasonable provisions on occupational safety and health and accident prevention.

On question 4

149. The legal provisions on the contract of employment apply to German and foreign workers alike. With regard to the prohibition of discrimination the following applies.

150. In labour law the principle of equal treatment applies in particular to the implementation of the employment relationship and its terms and conditions. When an employment relationship is to be established the employee is also protected by the imperative co-determination right of the works council in case of recruitments. According to section 75 of the Works Constitution Act, the works council is obliged to ensure that every person employed in the establishment is treated in accordance with the principles of law and equity, and that there is in particular no discrimination against persons on account of their descent, religion, nationality, origin, political or trade union activity or convictions. If a person is discriminated against for these reasons, the works council may refuse to give its consent to the recruitment of another person. As regards the termination of an employment relationship by the employer, the Act on the Protection Against Unfair

Dismissal applies to German and foreign workers alike. A certain race, colour or nationality is not a reason which would socially justify a termination of the employment relationship under section 1 of the Act on the Protection Against Unfair Dismissal. The same is true for a worker's affiliation with a religious community or a political party. In case of a termination of the employment relationship, foreign workers are protected by the participation rights of the works council. Foreign workers who lawfully reside in Germany and engage in lawful employment enjoy the same rights to benefits under the Employment Promotion Act as German workers. This is also true for job creation measures, further training and retraining measures. In 1995, 38,010 foreigners enrolled in further vocational training measures. Of those persons who hold jobs that have been created in the context of job creation schemes an average of about 10 per cent are foreigners in the old Länder.

On question 5

151. Reference is made to the information provided in the second periodic report on articles 6-9 of the Covenant and in the reports on the application of ILO Convention No. 132 and to the description of the major provisions of the Working Time Act given in the following paragraphs in reply to question 6.

On question 6

152. First of all, reference is made to the reports on the application of the ILO Conventions mentioned in the reply to question 1.

153. On 1 July 1994 the Working Time Act entered into force in Germany. It supersedes the Working Time Ordinance from 1938 and the provisions on Sunday rest laid down in the Industrial Code from 1891. The Act also meets the requirements of Council Directive 93/104/EC of the European Union on certain aspects of working time arrangements. The Working Time Act provides that the regular hours of work per working day must not exceed 8 hours. They may be extended to up to 10 hours if, within a reference period of 6 months or 24 weeks, compensatory time is taken so that an average of 8 hours per working day is achieved within this period.

154. A break of at least 30 minutes is to be granted to a worker who works more than 6 and up to 9 hours, and a break of 45 minutes if the working time exceeds a total of 9 hours. Workers are entitled to an uninterrupted period of rest of at least 11 hours following the daily hours of work.

155. A weekly period of rest follows first of all from the general ban on Sunday work laid down in the Working Time Act. If work on Sundays is permissible by way of exception, a substitute day of rest must be granted within two weeks. Moreover, at least 15 Sundays per year must remain free from work.

156. Council Regulation (EEC) No. 3820/85 of 20 December 1985 provides that a weekly period of rest of at least 45 consecutive hours is to be granted to driving personnel; this weekly period of rest is to be taken together with a daily period of rest of 11 hours as a rule which may be reduced to 9 or 8 hours as the case may be. Since the Federal Republic of Germany is a member of the European Union which exercises direct law-making powers in the fields

of economic, social and cultural rights, the EEC regulation provides, in respect of driving personnel, for a maximum driving time of 9 hours per day which may be extended to 10 hours twice per week. However, the total driving time must not exceed 90 hours within a period of 2 consecutive weeks.

157. The Federal Holidays Act which regulates the statutory minimum leave to be granted to workers has been amended by virtue of article 2 of the Working Time Act. With effect from 1 January 1995 the minimum length of the statutorily prescribed holidays amounts to 24 working days. Working days include all calendar days which are not Sundays or public holidays.

158. By virtue of article 62 of the Act on Social Security for the Risk of Long-term Care (Long-term Care Insurance Act) dated 26 May 1994 (cf. the comments on article 9 of the Covenant), the Act on the Payment of Wages on Public Holidays has been repealed. The payment of wages on public holidays is now regulated in section 2 of the Act on the Continued Payment of Wages. In terms of its contents, however, this new regulation corresponds to the former Act on the Payment of Wages on Public Holidays.

On question 7

159. This Question is not relevant to Germany.

C. Article 8 - The right to engage in trade union activities

On question 1

160. Germany has ratified ILO Conventions No. 87 on Freedom of Association and Protection of the Right to Organize and No. 98 on the Right to Organize and Collective Bargaining. Reference is made to the reports of the Federal Government on these conventions.

On question 2

161. In the trade union system of the Federal Republic of Germany the main actors are the 15 trade unions affiliated with the German Federation of Trade Unions (Deutscher Gewerkschaftsbund - DGB), the German Salaried Employees' Union (Deutsche Angestellten-Gewerkschaft - DAG) and the German Civil Servants' Association (Deutscher Beamtenbund - DBB). To these add the Christian unions that are affiliated with the Federation of Christian Unions Germany (Christlicher Gewerkschaftsbund Deutschland - CGB). In 1994 the number of members amounted to 9,786,373 in the DGB unions, to 520,709 in the DAG, to 1,089,213 in the DBB and to 306,481 in the CGB.

On question 3

162. To avoid repetitions, reference is made to the comments on article 8 in the second periodic report of the Federal Republic of Germany dated 20 December 1984 and to the reports on ILO Conventions No. 87 and No. 98 which have been ratified by Germany.

On question 4

163. Like public service employees (workers and salaried employees), civil servants, judges and soldiers also have the right to join a trade union of their choice. Unlike public service employees, however, civil servants, judges and soldiers are not allowed to exercise the right to strike because of their special duty of allegiance towards their employer and because their terms and conditions of employment are not regulated by collective agreement but by the legislator. According to article 8, paragraph 2, this does not conflict with the obligations assumed under the Covenant. Staff members of these categories who do participate in strikes normally have to face disciplinary action.

On question 5

164. Reference is made to the reports on ILO Conventions No. 87 and No. 98 which have been ratified by Germany.

D. Article 9 - The right to social security

On question 1

165. With the exception of Convention No. 168, Germany has ratified all ILO Conventions - Nos. 102, 121, 128 and 130 - listed in the guidelines for Article 9. Convention No. 102 has been ratified with regard to its Parts II-X.

On question 2

166. All social security branches mentioned in this question exist in Germany. In addition to these branches, an autonomous long-term care insurance scheme was introduced on 1 January 1995.

On question 3

167. First of all, reference is made to the comments in the second periodic report on articles 6-9 of the Covenant and to the reports on the application of ILO Convention No. 102. In addition, the following information is supplied on the individual branches of social security listed in question 2.

1. Health insurance (medical care, cash sickness benefits)

168. In Germany the system of coverage in the event of sickness is borne by:

(a) The statutory health insurance (Gesetzliche Krankenversicherung - GKV);

(b) The private health insurance;

(c) Other systems of protection (e.g. occupational accident and pension insurance, social assistance, war victims assistance, civil servants' subsidies scheme, medical care for members of the police and of the armed forces).

169. The vast majority of the population in Germany is covered by the statutory health insurance. The number of persons insured with the statutory health insurance funds rose steadily after the introduction of the statutory health insurance scheme until it reached 72 million or almost 90 per cent of the population. This is above all the result of legal amendments by means of which the personal scope of the scheme, which was originally limited to industrial workers, was gradually extended over the years.

170. Almost 11 per cent of the population are fully covered outside the statutory health insurance, mostly by private health insurance. On the whole, more than 8 million people have private health insurance coverage or other reimbursement claims as, for instance, under the civil servants' subsidies scheme.

171. With a total expenditure of about DM 233 billion in 1994 the statutory health insurance financed roughly 50 per cent of the expenses in the German health-care sector. This means that the catalogue of benefits of the statutory health insurance has a decisive effect on the supply of medical services in the health-care sector in the Federal Republic of Germany. By means of its pricing and fee-related policies in the field of health-care services the health insurance exerts a forming and shaping influence on the supply structures, the benefits, the standard and the efficiency of the medical care offered.

172. The system of statutory health insurance is characterized mainly by the principle of self-administration. It is not a public health service but distinguishes itself by cooperation between sickness funds, medical professions, hospitals and other service providers and their associations at the federal and State levels. Both the sickness funds and their associations and the panel doctors' and panel dentists' associations established on the basis of the law as organizations representing the contract doctors and contract dentists have the right to act autonomously and are thus also responsible for their action. The funds of the statutory health insurance are mainly raised by contributions paid from the insured persons' earned income and by the employers. The sickness funds have to see to it that their income and expenditures are balanced.

173. As a rule, every insured person has to contribute to the financing of health insurance in accordance with his financial capacity. This is why the contributions are assessed on the basis of the insured person's income - regardless of the risks to be insured and of the number of persons to be insured as family members. This principle protects insured persons who, because of their health risks or their family situation, have an extensive benefits claim from having to pay higher contributions than insured persons who have equal earnings but lower risks to be insured. The spouses and children of persons who are members of the statutory health insurance are insured as family members - without additional contributions - unless they are engaged in employment liable to the payment of social insurance contributions or have income exceeding a certain ceiling. As a rule, pensioners continue to be members of their respective sickness fund and enjoy the same protection.

174. Contributions are assessed on the basis of the member's gross earnings; however, these are taken into account only up to a contribution assessment

ceiling which is annually adjusted. The contribution assessment ceiling applicable in the statutory health insurance amounts to 75 per cent of the contribution assessment ceiling applicable in the statutory pension insurance (1996: DM 72,000 per year or DM 6,000 per month). It changes in accordance with the development of the gross earnings of all insured persons covered by the Wage Earners' and Salaried Employees' Pension Scheme.

175. The benefits of the sickness funds are mainly provided as benefits in kind. In the event of sickness, an insured person may thus claim benefits of the statutory health insurance without having to pay for them directly since the sickness funds have concluded contracts with the so-called service providers such as doctors, hospitals, pharmacies, etc. which require the latter to treat an insured person in the event of sickness at the expense of the sickness fund. In some care sectors, however, insured persons are required to make co-payments although there are special regulations which apply in cases of social hardship.

176. By means of the structural reform in the health-care sector which was launched in 1989 the tasks of the statutory health insurance were expanded. The prevention of sickness, the promotion of health, curative treatment and rehabilitation are now tasks that are equal in weight; apart from the granting of benefits, the task of providing information and counselling for the insured persons is considered to be of equal importance. This modern concept is also reflected in the currently applicable catalogue of benefits. On the basis of this catalogue, the statutory health insurance has to provide the following benefits: promotion of health; prevention of sickness; treatment of sickness; medical rehabilitation; payment of sickness benefits; payment of death grants.

177. To supplement the comments made in the second periodic report on articles 6-9 of the Covenant the following information is supplied on changes in the statutory health insurance.

178. As a result of the increase in expenditure and the subsequent rise in contribution rates the developments in the statutory health insurance were marked by cost containment measures in the first half of the 1980s. A renewed cost explosion in the second half of the 1980s made it clear that the real causes for the rising expenditure of the statutory health insurance had not been removed by the cost containment measures taken before. Oversupply and inefficiency as a result of inadequate controls in the system of the statutory health insurance together with the expansion of benefits, the repercussions of medical and technical progress and the changes in the age structure of the population formed a major part of these causes which led to a waste of the funds of the statutory health insurance in the end. Since 1989 the developments in the statutory health insurance have therefore been characterized by a broad-based structural reform which is above all meant to address misdirected developments and remove shortcomings in the system while respecting the need to preserve and further develop an efficient social health insurance. Furthermore, the structural reform was accompanied by a new codification of the legislation governing the health insurance. The health insurance legislation was taken out of the Reich Insurance Code and incorporated into the Social Code as Book V. The necessary measures of the structural reform were introduced by virtue of the Health-Care Reform Act of 20 December 1988, of the First Act to amend Book V of the Social Code

dated 22 March 1991, of the Second Act to amend Book V of the Social Code dated 20 December 1991 and of the Health-Care Structure Act of 20 December 1992.

179. The measures of the structural reform include, inter alia, the following:

(a) The co-payment for medical aids is raised to 10 per cent of the costs;

(b) The co-payments for drugs and bandages now follow the package size and amount to DM 3, 5 or 7;

(c) A co-payment of DM 12 per calendar day for a maximum of 14 days has been introduced for in-patient hospital treatment;

(d) A co-payment of DM 12 per calendar day has been introduced for in-patient spa treatment;

(e) Petty or inefficient drugs and aids and appliances of little effect or low dispensing prices are no longer covered (laxatives, remedies for a cold, etc.);

(f) Dentures which are not medically required are no longer covered;

(g) Contrary to the previous regulations, travel expenses are assumed by the sickness funds only insofar as they exceed DM 20 per single ride. Travel expenses in the context of out-patient treatment are only assumed if such treatment replaces or shortens hospital treatment;

(h) Introduction of a statutory hardship clause oriented towards the insured person's financial capacity. The hardship clause ensures that sick and disabled persons receive what is medically necessary without any restrictions and avoids undue hardship as a result of the statutorily prescribed co-payments. Insured persons with low incomes are therefore exempted from the co-payments;

(i) Introduction of sickness benefits payable to insured persons looking after a sick child (cf. comments on art. 10, question 4 (b));

(j) Introduction of health check-ups for the early detection of diseases, especially heart, circulatory and kidney diseases and of diabetes;

(k) The sickness funds are required to inform the persons insured with them on health risks and the prevention of diseases;

(l) Introduction of benefits in kind and financial benefits to be provided in case of home care (for persons in severe need of long-term care). Following the introduction of benefits to be provided in case of home care by the long-term care insurance funds under the social long-term care insurance as from 1 April 1995, the regulations on benefits to be provided by the sickness funds for persons in severe need of long-term care were repealed with effect from that date.

180. Due to further global control measures such as the reform of hospital financing, changes in the fee systems and in the regulations concerning contracts, changes in the field of pharmaceuticals and the reform of the organizational structures of the sickness funds, the expenses of the sickness funds do not rise more steeply than the income of the insured persons who are liable to pay contributions.

181. With effect from 1 January 1991 the statutory health insurance, including numerous transitional regulations, has also been introduced in the new Länder. By act of law, everyone who was insured with a social insurance fund of the former GDR was covered by the statutory health insurance in the new Länder. Because of the income disparities between the old and the new Länder the limit above which compulsory coverage starts was fixed at a lower level than in the old Länder (1996: DM 590 per month in the old Länder and DM 500 in the new Länder); it is gradually being raised to the level applicable in the old Länder. Insured persons in the new Länder are entitled to the same benefits as insured persons in the old Länder. Co-payments on the part of the insured persons were gradually introduced in the new Länder. With the exception of in-patient hospital treatment and in-patient spa treatment the same co-payment regulations have applied in East and West Germany since 1 January 1993.

182. To finance urgently needed hospital investments in the new Länder a joint programme of the Federal Government, the Länder and the statutory health insurance was launched on the basis of the Health-Care Structure Act. From 1995 to 2004 the Federal Government will grant financial assistance in the amount of DM 700 million per year. The new Länder and the sickness funds will contribute to the financing in the same amount. The financial prerequisites for the setting up of a modern hospital infrastructure have thus been created.

183. By virtue of the Act on the Social Insurance of Self-Employed Artists and Publicists dated 27 July 1981 self-employed artists and publicists have been compulsorily covered by the salaried employees' pension insurance and by the statutory health insurance since 1 January 1983 unless legally defined exemptions from compulsory coverage apply. Since 1 January 1995 they have also been subject to compulsory coverage in the social long-term care insurance. The artist or publicist has to pay one half of his contribution to the artists' social fund. The second half is financed from a federal subsidy and a social levy for artists. The social levy for artists is collected from companies which market the works of self-employed artists and publicists. The artists' social fund transfers the contributions to the insurance funds (Federal Insurance Institute for Salaried Employees, local sickness fund or substitute fund, long-term care insurance fund) which provide the regular benefits for artists and publicists if the contingency arises.

2. Long-term care insurance

184. By means of the Long-Term Care Insurance Act adopted in 1994 the care for persons in need of long-term care and the situation of relatives acting as carepersons have been considerably improved and given a new basis. A social long-term care insurance has been introduced under the aegis of the sickness funds. It covers the persons insured with the statutory health insurance, i.e. about 90 per cent of the population. Those who have private health

insurance coverage are required to conclude a private long-term care insurance contract. Compulsory coverage began on 1 January 1995. The benefits of the long-term care insurance are introduced in two stages - those provided in case of home care as from 1 April 1995, and those provided in case of institutional care as from 1 July 1996. In the field of home care the benefits are graded according to the need for long-term care and are granted as benefits in kind and cash benefits. The range of benefits provided in case of home care includes regular benefits in kind and/or cash benefits but also respite care if the careperson is sick or on holiday, day and night care, short-term care, nursing aids, subsidies towards alterations of the home required by the provision of care and free of charge nursing courses to instruct family members and unpaid carepersons.

185. Persons providing home care are covered by the statutory occupational accident insurance. Contributions towards the pension insurance of persons providing home care are paid depending on the care category and the extent of care and nursing.

186. The long-term care insurance, which is the fifth pillar of the social insurance scheme, is financed from contributions paid by employers and employees, pensioners and pension insurance funds on the basis of solidarity.

187. The introduction of the long-term care insurance brought a satisfactory solution to almost 20 years of discussions about how to cover the risk of long-term care. The Long-Term Care Insurance Act has led to sustainable improvements in the situation of the 1,650,000 persons in need of long-term care and their family members. In particular, especially the benefits available in case of home care and the social protection provided for unpaid carepersons constitute considerable progress for women. About 90 per cent of the persons in need of long-term care who live at home - almost 1.2 million people - are looked after by family members. Home care is normally given by women - mothers, wives, daughters and daughters-in-law. This is why the long-term care insurance benefits women above all. The measures aimed at supporting home care will also help to avoid or alleviate negative health repercussions resulting from long years of nursing. In view of the fact that the large majority of carepersons are women this, too, constitutes considerable progress in the interest of women.

3. Maternity benefits

188. Reference is made to the comments on article 10 of the Covenant.

4. Pension insurance (old-age, invalidity, survivors' and employment injury benefits)

(a) Old-age benefits

189. The following tables provide information on old-age benefits.

Type of pension:	Standard old-age pension	Old-age pension for long-term insured persons	Old-age pension for severely disabled, occupationally disabled or totally invalid persons	Old-age pension because of unemployment	Old-age pension for women	Old-age pension for miners with long service underground
Special prerequisites:	Completion of age 65	Completion of age 63 For insured persons born after 31 December 1937 the age limit is gradually raised (anticipated pension payments reduced by 0.3% per month = 3.6% per year are possible).	Completion of age 60 Severe disability, occupational disability or total invalidity at the time when the pension payments begin.	Completion of age 60, unemployed Period of unemployment of a total of 52 weeks within the last 18 months preceding the pension payments 8 years of compulsory contributions within the last 10 years preceding the pension payment. For insured persons born after 31 December 1940 the age limit is gradually raised (anticipated pension payments reduced by 0.3% per month = 3.6% per year are possible).	Completion of age 60 More than 10 years of compulsory contributions after completion of age 40	Completion of age 60
	5 years	35 years		15 years		25 years
Prescribed qualifying period:	To fulfil the qualifying periods of 5 years and 15 years calendar months with contributory periods, substitute periods and periods resulting from the division of pension rights in case of divorce are used, and to fulfil that of 35 years, also calendar months with credited periods and considered periods. To fulfil the qualifying period of 25 years calendar months with contributory periods based on employment involving continuous work underground are used. The qualifying period of 5 years is deemed to be met if an insured person has drawn a pension on account of reduced earning capacity or a child-raising pension up until age 65. The old-age pensions may be drawn as full pensions or partial pensions (one third, one half or two thirds of the full pension). If, after completion of age 65, an old-age pension is claimed as a partial pension only, the full pension to be paid later on is raised by 0.5% per month = 6% per year of the part not yet claimed.					
Additional earnings limit:	No limit	Until the completion of age 65 the general additional earnings limits are as follows: Full pension: DM 580 per month (1/7 of the monthly reference figure, value 1995), in the new Länder DM 470 per month 2/3 partial pension: DM 809.03, in the new Länder DM 635.78 per month 1/2 partial pension: DM 1 213.54, in the new Länder DM 953.68 per month 1/3 partial pension: DM 1 618.05, in the new Länder DM 1 271.55 per month minimum additional earnings (second half of 1995) The individual higher additional earnings limit (only in case of partial pensions) depends on the earnings points achieved in the last calendar year preceding the first old-age pension if these exceed 0.5. In the course of each pension year the relevant limit may be exceeded twice by the amount of additional earnings allowed.				

Old-age pensions from the Farmers' Old-Age Security

	Old-age pension as from age 65 a/	Anticipated old-age pension b/
Prerequisites:	- Completion of age 65 - Completion of the qualifying period - Handing over of the farm	- Completion of age 55 - Completion of the qualifying period - Entitlement of the spouse to an old-age pension as from age 65 - Handing over of the farm
Prescribed qualifying period:	15 years Contributions to the Farmers' Old-Age Security and, as from the entry into force of the Amended Act on Social Reform in Agriculture, compulsory contributions to the statutory pension insurance are used to fulfil the qualifying period.	15 years Contributions to the Farmers' Old-Age Security and, as from the entry into force of the Amended Act on Social Reform in Agriculture, compulsory contributions to the statutory pension insurance are used to fulfil the qualifying period.

a/ For farmers and family members working on the farm.

b/ For farmers only.

(b) Invalidity benefits

190. The following tables give information about invalidity benefits.

Type of pension	Total invalidity pension		Occupational disability pension	Pension for miners	
				on account of reduced working capacity as a miner	because of completion of age 50
Special prerequisites	3 years of compulsory contributions within the last 5 years before the onset of total invalidity	Completion of the qualifying period of 5 years before the onset of total invalidity	cf. total invalidity pension	3 years of compulsory contributions to the Miners' Pension Insurance within the last 5 years	Completion of age 50
	Insured persons who, because of an illness or disability will not be able to engage in gainful employment with a certain regularity or to achieve earnings of more than 1/7 of the monthly reference value for a period that is not foreseeable are considered to be totally invalid. A person who engages in self-employment is not considered to be totally invalid. Entitlement ceases upon completion of age 65.		Insured persons whose earning capacity is reduced, because of an illness or disability, to less than half of that of insured persons who are healthy, have a similar qualification and equivalent knowledge and skills are considered to be occupationally disabled.	An insured person who, because of an illness or disability, is not able to work in his previous job or engage in another economically equivalent employment in the mining sector is considered to have a reduced working capacity as a miner unless he engages in equivalent employment outside the mining sector.	The person is no longer engaged in employment which is economically equivalent to the previously held job in the mining sector.

Prescribed qualifying period:	5 years before the onset of total invalidity.	20 years before the beginning of pension payments.	5 years before the onset of occupational disability.	Period of coverage in the Miners' Pension Insurance 5 years before the onset of the reduced working capacity as a miner.	25 years before the beginning of pension payments.
	To fulfil the qualifying period of 5 and 20 years calendar months with contributory periods, substitute periods and periods resulting from the division of pension rights in case of divorce are used. To fulfil the qualifying period of 25 years calendar months with contributory periods based on employment involving continuous work underground are used. The qualifying period of 5 years is considered to be fulfilled prematurely if an insured person's earning capacity is reduced on account of an accident at work, an injury sustained during military or civilian service, or custody within the meaning of the Discharged Prisoners' Assistance Act. In case of an accident at work or a pension for miners, further conditions laid down in insurance law have to be met. If an insured person becomes totally invalid before the expiry of 6 years after having completed his training, and if he paid compulsory contributions for at least one year within the last 2 years the qualifying period is also considered to be fulfilled prematurely.				
Additional earnings limit:	1/7 of the monthly reference value (1995 = DM 580, in the new Länder DM 470).		Employment and additional earnings possible within the framework of the remaining earning capacity.	Additional earnings from an employment which is not economically equivalent to the previous employment are not taken into account.	

Total invalidity pensions from the Farmers' Old-Age Security (for farmers and family members working on the farm)

Prerequisites:

- Total invalidity in accordance with the provisions of the statutory pension insurance
- Handing over of the farm
- Three years of compulsory contributions within the last 5 years before the onset of total invalidity (the period of 5 years is extended if certain prerequisites are met)
- Completion of the qualifying period of 5 years

Prescribed qualifying period:

- Five years before the onset of total invalidity Contributions to the Farmers' Old-Age Security and - as from the entry into force of the Amended Act on Social Reform in Agriculture, compulsory contributions to the statutory pension insurance
- The qualifying period is considered to be fulfilled prematurely if an insured person becomes totally invalid on account of an accident at work and was subject to compulsory coverage at the time when the accident occurred.

(c) Survivors' benefits

191. The following tables give information about survivors' benefits.

Type of pension	Widow's/widower's pension		Orphan's pension		Child-raising pension
	at the low rate	at the high rate	half-orphan's pension	full orphan's pension	
Special prerequisites	Death of the insured person	Death of the insured person Completion of age 45 or occupational disability/total invalidity or raising of an own child/a child of the insured spouse.	Death of the insured person Entitlement ceases upon completion of age 18, in case of education/training of age 27.	Death of the insured person and of the other parent	Divorce after 30 June 1977 Death of the divorced spouse. Raising of an own child/a child of the divorced spouse. No remarriage. Entitlement ceases upon completion of age 65.
Prescribed qualifying period	5 years on the part of the insured person or pension receipt on the part of the insured person at the time of his/her death. To fulfil the qualifying period of 5 years calendar months with contributory periods, substitute periods and periods resulting from the division of pension rights in case of divorce are used. The qualifying period of 5 years is considered to be fulfilled prematurely (this does not apply to the child-raising pension) if an insured person died as the result of an accident at work, an injury sustained during military or civilian service, or custody within the meaning of the Discharged Prisoners' Assistance Act; in case of an accident at work further conditions laid down in insurance law have to be met. If an insured person dies before the expiry of 6 years after having completed his training, and if he paid compulsory contributions for at least one year within the last 2 years the qualifying period of 5 years is also considered to be fulfilled.				5 years from the claimant's own insurance completed before the death of the former spouse.
Additional earnings limit	No limit to additional earnings (with the exception of the widow's/widower's pension at the high rate payable because of occupational disability/total invalidity). Own income is partly taken into account (e.g. earnings from employment, pension from one's own insurance) if it exceeds the free area (in the second half of 1995 DM 1 220.47 per month, in the new Länder DM 959.11 per month). For each child entitled to an orphan's pension this amount is raised by DM 258.83 per month resp. DM 203.45 per month in the new Länder. Of the income exceeding the total amount of the free area 40 per cent are taken into account.		No limit to additional earnings. After completion of age 18 own income is partly taken into account if it exceeds the free area (in the second half of 1995 DM 813.65 per month, in the new Länder DM 639.41). For each child entitled to an orphan's pension this amount is raised by DM 258.89 per month resp. DM 203.45 in the new Länder. Of the income exceeding the total amount of the free area 40 per cent are taken into account.		Since 1992 no limit to additional earnings, and income is taken into account in accordance with the provisions applicable to the widow's/widower's pension.

Survivors' benefits from the Farmers' Old-Age Security

Type of pension:	Widow's/widower's pension	Orphan's pension a/		Bridging allowance b/
		half-orphan's pension	full orphan's pension	
Prerequisites:	- Death of the insured person - Surviving spouse must not be a farmer The other eligibility criteria are the same as in the statutory pension insurance.	- Death of the insured person - The orphan must not be a farmer The eligibility criteria are the same as in the statutory pension insurance.	- Death of the insured person and of the other parent	- Death of the insured person - Continuation of the farm - Raising of a child entitled to an orphan's pension - Entitlement of the deceased to a contribution subsidy at the time of his death - Claimant must be under 65 - Completion of the qualifying period on the part of the deceased - 3 years of compulsory contributions paid by the insured person within the last 5 years before his death
Prescribed qualifying period:	- 5 years of contributory periods completed by the deceased. Contributions to the Farmers' Old-Age Security and, as from the entry into force of the Amended Act on Social Reform in Agriculture, compulsory contributions to the statutory pension insurance. - The qualifying period is considered to be fulfilled prematurely if an insured person died as the result of an accident at work and was subject to compulsory coverage at the time when the accident at work occurred.	- 5 years of contributory periods completed by the deceased. Contributions to the Farmers' Old-Age Security and, as from the entry into force of the Amended Act on Social Reform in Agriculture, compulsory contributions to the statutory pension insurance. - The qualifying period is considered to be fulfilled prematurely if an insured person died as the result of an accident at work and was subject to compulsory coverage at the time when the accident at work occurred.		- 5 years of contributory periods completed by the deceased. Contributions to the Farmers' Old-Age Security and, as from the entry into force of the Amended Act on Social Reform in Agriculture, compulsory contributions to the statutory pension insurance. - The qualifying period is considered to be fulfilled prematurely if an insured person died as the result of an accident at work and was subject to compulsory coverage at the time when the accident at work occurred.
Additional earnings limit:	The provisions governing the cumulation of survivors' benefits and income correspond to those applicable in the statutory pension insurance.			

a/ Also for family members working on the farm.

b/ Only for widows and widowers of insured farmers.

(i) Women-specific aspects in the statutory pension insurance and the Farmers' Old-Age Security

192. Pension insurance. When women are younger their livelihood is normally secured by their own income from work or by family income, e.g. the husband's earned income. The major sources of income which also enable women to lead an autonomous life in old age without being dependent on public support or

relatives are pensions based on contributions of their own and/or survivors' benefits - in case of divorced women also maintenance payments and pension payments resulting from the division of pension rights.

193. Survivors' benefits (so-called widow's/widower's pensions) are payable to the widow or widower of an insured person. Persons over 45 receive 60 per cent of the deceased person's pension.

194. The average pension from an insurance of one's own amounts at present to DM 796 for women in the old Länder and to DM 1,059 for women in the new Länder. The average widow's pension amounts at present to DM 1,018 in the old Länder and to DM 796 in the new Länder.

195. A first step was made in 1986 when the Act on Survivors' Benefits and Child-Raising Periods provided that persons born in 1921 and later were to be credited with one insurance year for the raising of a child. The second step was made in 1987 when the Act on Child-Raising Benefits introduced benefits for child-raising for mothers born before 1921.

196. This course of action was further pursued by the Pension Reform Act 1992:

(a) For children born as from 1992 the child-raising period credited in the statutory pension insurance is increased by two years to three years. Parental periods, i.e. periods to be considered for the raising of a child up until the age of 10, were also introduced for births before 1992. They alleviate the consequences of gaps due to child-raising which are to be found in the pension records of many women. The particular importance that these regulations have for a large number of mothers is illustrated by the following figures: In 1995 about 5.8 million mothers benefited from the regulations on child-raising in the old Länder; the annual expenses amounted to roughly DM 5,800 million. For an individual mother these improvements made themselves felt in the form of monthly pension increases of DM 69.50 on average (for mothers born as from 1921) and by monthly child-raising benefits of DM 85.00 on average (for mothers born before 1920) in the old Länder in 1995. It is not yet possible to provide such differentiated information for the new Länder. It can be said, however, that in the new Länder more than 1.6 million mothers will benefit from the regulations on child-raising laid down in pension law;

(b) The pension based on minimum earnings is maintained. A person with low earnings - for whatever reasons - is treated more favourably when the pension is calculated. All periods of employment completed up until 1991 are revalued so that they equal 1.5 times the earnings achieved but 75 per cent of the average wage at the most. The prerequisite for the pension based on minimum earnings is now a qualifying period of 35 years. This regulation benefits women in particular as periods of child-raising, including parental periods, may be used to fulfil the qualifying period of 35 years.

197. Family work is not limited to child-raising and housekeeping. For many women it includes unpaid care and nursing for disabled, chronically ill or

elderly relatives, often for many years. Seventy-five per cent of the main caregivers are women; the time needed daily to look after a person who requires long-term care is between six and nine hours.

198. The Long-Term Care Insurance Act described above is a further step towards a stronger recognition of the caregivers' work. The Act stipulates that pension insurance contributions are to be paid by the long-term care insurance funds which, depending on the care category and the extent of care and nursing, lie between DM 211 and DM 630 per month.

199. Farmers' Old-Age Security. A major element of the reform of the agricultural pension scheme effected by the 1995 Act on Social Reform in Agriculture was the introduction of an autonomous social security coverage for a farmer's wife within the Farmers' Old-Age Security as from 1 January 1995; this brought an end to the previously inadequate social protection of this category of person. By virtue of this regulation a farmer's wife is covered under the Farmers' Old-Age Security in a way which is equivalent to the social security coverage of the farmer himself. The decisive factor for this measure was the fact that a farmer's wife had no coverage of her own although she assumed a considerable share of the work on the farm; according to a 1990 statistical survey carried out by the Federal Ministry of Food, Agriculture and Forestry a part-time farmer's wife worked on average 4.8 hours per day on the farm. Especially for the wives of part-time farmers, an autonomous coverage was considered to be necessary for the very reason that, owing to their husband's employment outside agriculture, the work on the farm is typically and mainly done by them.

200. This autonomous social security coverage for a farmer's wife allows an exemption from compulsory coverage in the Farmers' Old-Age Security in cases where she - just like the farmer himself - acquires pension rights of her own in other old-age security schemes on the basis of employment outside agriculture or on account of other facts (e.g. child-raising). Whenever a new type of compulsory coverage is introduced it is usual and adequate to have transitional provisions; in this case, they grant a farmer's wife a special right to exemption if certain prerequisites are met. This takes account of the fact that at the time when the reformed Farmers' Old-Age Security entered into force a farmer's wife may already have been of an age where it can be assumed that provision for old age has been made (completion of age 50) or where she has already acquired an adequate coverage of her own (membership in other old-age security schemes for at least 216 calendar months or conclusion of a private life insurance with adequate contributions).

201. In general, the social reform in agriculture met with broad approval both with regard to the concept of an autonomous coverage for a farmer's wife and the other provisions included. There were only a few points where a review of the effects of the 1995 Act on Social Reform in Agriculture revealed a need for further improvements. One case in point is the situation of a part-time farmer's wife who had applied for an exemption from compulsory coverage under the Farmers' Old-Age Assistance before the entry into force of the reform, a situation which is, inter alia, characterized by the fact that the farm is often only a small one and that, because of the husband's income from employment outside agriculture, there is no or only a very limited entitlement to a contribution subsidy. As a result, the contributions to be

paid into the Farmers' Old-Age Security sometimes eat up a considerable share of the profits made on the (small) farm. This is why provision has been made for additional rights to exemption to be granted in those cases - and in conflict with the objectives pursued with the introduction of an autonomous coverage for a farmer's wife - where the burden from the contributions would be disproportionately high in relation to the profits made on the farm, on condition that the farmer's wife is adequately covered elsewhere.

(d) Employment injury benefits

202. In the period under review the pensions and the nursing allowances payable from the statutory occupational accident insurance were raised as follows:

From 1 July 1984 by 1.31 per cent (Pension Adjustment Act 1984 dated 27 June 1984);

From 1 July 1985 by 1.41 per cent (Pension Adjustment Act 1985 dated 5 June 1985);

From 1 July 1986 by 2.15 per cent (Pension Adjustment Act 1986 dated 13 May 1986);

From 1 July 1987 by 3.03 per cent (Pension Adjustment Act 1987 dated 19 December 1986 in conjunction with the Ordinance to Amend the Pension Adjustment Rate 1987 dated 7 April 1987);

From 1 July 1988 by 3 per cent (Pension Adjustment Act 1988 dated 10 May 1988);

From 1 July 1989 by 2.4 per cent (Pension Adjustment Act 1989 dated 9 May 1989);

From 1 July 1990 by 3.16 per cent (Pension Adjustment Act 1990 dated 28 May 1990);

From 1 January 1991 by 15 per cent in the acceding territory (Pension Adjustment Ordinance dated 14 December 1990);

From 1 July 1991 by 5.04 per cent (Pension Adjustment Act 1991 dated 6 May 1991) and by 15 per cent in the acceding territory (Pension Adjustment Ordinance dated 19 June 1991);

From 1 January 1992 by 11.65 per cent in the acceding territory (Pension Adjustment Ordinance dated 19 December 1991);

From 1 July 1992 by 3.05 per cent (Pension Adjustment Ordinance 1992 dated 5 June 1992) and by 12.73 per cent in the acceding territory (Pension Adjustment Ordinance dated 5 June 1992);

From 1 January 1993 by 6.1 per cent in the acceding territory (Pension Adjustment Ordinance dated 8 December 1992);

From 1 July 1993 by 4.45 per cent and by 14.12 per cent in the acceding territory (Pension Adjustment Ordinance dated 9 June 1993);

From 1 January 1994 by 3.64 per cent in the acceding territory (Contribution Rate Ordinance 1994 dated 1 December 1993);

From 1 July 1994 by 3.05 per cent and in the acceding territory by 3.45 per cent (Pension Adjustment Ordinance 1994 dated 10 June 1994).

203. By virtue of the Act to restructure the survivors' benefits scheme and to recognize child-raising periods in the statutory pension insurance (Act on Survivors' Benefits and Child-Raising Periods) dated 11 July 1985 the revision of the survivors' benefits scheme went into force on 1 January 1986. The Act provides that in case of deaths that occur after 1 January 1986 the prerequisites for the payment of survivors' benefits from the statutory occupational accident insurance are the same for widows and widowers. However, under the new legislation the widow's or widower's income is taken into account in accordance with the provisions laid down in the Act.

204. By means of the Ordinances to Amend the Occupational Diseases Ordinance dated 22 March 1988 and 18 December 1992 the list of occupational diseases was expanded with effect from 1 April 1988 and 1 January 1993 respectively; with regard to the newly entered occupational diseases, contingencies which had arisen before were covered retroactively from 1 January 1976 and 1 April 1988 respectively.

205. By virtue of the Tax Reform Act 1990 dated 2 August 1988 the contribution-free coverage of construction works for previously tax-privileged housing to be ready for occupancy after 31 December 1989 was repealed.

206. Article 24 of the Act of 25 June 1990 relating to the Treaty between the Federal Republic of Germany and the German Democratic Republic Establishing a Monetary, Economic and Social Union dated 18 May 1990 regulates the cooperation between the contracting States in the occupational accident insurance and provides, in particular, that the Foreign Pensions Act ceases to be applied in the acceding territory.

207. Chapter I of the Act of 23 September 1990 relating to the Treaty between the Federal Republic of Germany and the German Democratic Republic on the Establishment of German Unity dated 31 August 1990 provides for the gradual introduction in the acceding territory of the occupational accident insurance legislation applicable in the old Länder. It regulates in particular when the relevant federal legislation is to be applied in the acceding territory and which institutions will act as occupational accident insurance funds.

208. By virtue of the Act on the establishment of legal unity in the statutory pension and occupational accident insurance schemes dated 25 July 1991 the West German occupational accident insurance legislation which was in part not yet applicable in the acceding territory was introduced in the acceding territory with effect from 1 January 1992.

(e) Unemployment benefits

209. First of all, reference is made to the reports on the application of ILO Convention No. 102 which are updated and supplemented by the following information.

210. Due to the AFG Benefits Ordinance 1995 dated 19 December 1994, the maximum income to be used as basis for the assessment of unemployment benefits (art. 22 of the ILO Convention) is at present DM 1,820 per week or DM 7,800 per month. Unemployment benefits are calculated on the basis of the gross earnings that an unemployed person cannot achieve because of a lack of suitable vacancies reduced by the statutorily prescribed deductions normally imposed on workers. Of these net earnings, which are specified in greater detail by law, an unemployed person with children receives 67 per cent and all other unemployed persons 60 per cent as unemployment benefits. In 1995, the expenditures for unemployment benefits amounted to roughly DM 48,200 million; in 1985, about DM 14,700 million were spent for this purpose.

211. The statutorily prescribed period of suspension of benefits (cf. art. 24 of ILO Convention No. 102) amounts to 12 weeks. A severance pay by the employer on account of the termination of the employment relationship leads to a further suspension of the right to unemployment benefits if a period of suspension has to be observed as a result of the termination of the employment relationship.

212. Unemployment insurance is financed by employer and employee who each pay a contribution of 3.25 per cent of the earnings (sect. 154 AFG). At present, the maximum earnings to be used as basis for the assessment of contributions amount to DM 1,820 per week or DM 7,800 per month (sect. 175 AFG).

213. Unemployment assistance is financed from the Federal Government's tax revenues and supplements unemployment benefits as a subsidiary wage replacement benefit. As a rule, it is meant for unemployed persons who had been engaged in employment but who have exhausted their claim to unemployment benefits (so-called follow-up unemployment assistance) or who have not yet acquired an entitlement to unemployment benefits (so-called primary unemployment assistance). Like unemployment benefits, unemployment assistance partly makes up for the loss of income from work. Therefore, the income that an unemployed person cannot earn because of his unemployment is used as a guideline. Unemployment assistance is granted to unemployed persons who:

(a) Are unemployed;

(b) Are available for placement into work;

(c) Are not entitled to unemployment benefits because they have not completed the qualifying period;

(d) Have applied for unemployment assistance;

(e) Within one year preceding their application

(i) Were in receipt of unemployment benefits (follow-up unemployment assistance) or

(ii) Were engaged in dependent employment subject to the payment of social insurance contributions under the Employment Promotion Act or in equivalent employment (primary unemployment assistance) for at least 150 calendar days, and

(iii) Are in need.

214. Unemployment assistance amounts to 57 per cent of the standardized last net earnings for unemployed persons with at least one child (53 per cent for unemployed persons without children).

215. Follow-up unemployment assistance is as a rule paid up until the completion of age 65 but it is granted for the period of one year at the most. Before the period for which it has been granted expires, the eligibility criteria have to be checked again. By virtue of the First Act to implement the Savings, Consolidation and Growth Programme of 21 December 1993, the period of receipt of primary unemployment assistance was limited to 312 days. The average amount (net per capita rate) of unemployment assistance according to the Federal budget 1994 was DM 1,030.49 for the old Länder and DM 810.39 for the new Länder. In addition, the compulsory social insurance contributions are assumed.

216. In 1995, the expenditures for unemployment assistance amounted to roughly DM 20,500 million (1985 roughly DM 9,000 million). The increased expenses on unemployment assistance are largely due to the above-average increase in the number of long-term unemployed persons, especially in the new Länder.

217. Considerable financial means are made available for active labour market policies to help workers take up employment and thus end unemployment and the related receipt of unemployment benefits/unemployment assistance. As regards the tasks and measures of active labour market policies and the relevant expenses, reference is made to the reports on ILO Convention No. 122 and the comments made under question 2 (b) on article 6 of the Covenant.

(f) Family benefits

218. Reference is made to the comments on article 10 of the Covenant.

On question 4

219. All social benefits granted in Germany are listed in the social budget of the Federal Government. The ratio between the benefits registered in the social budget and the Gross Domestic Product (GDP) is the so-called social spending ratio.

220. When considering the following overview of the development of the social budget and the social spending ratio over time, it has to be taken into

account that as from the second half of 1990 the new Länder have been covered as well so that the data as from 1990 are comparable with those of the years before only to a limited extent.

Year	Social budget (in billion DM)	GDP (in billion DM)	Social spending ratio
1980	479.9	1 472.0	32.6
1984	559.9	1 750.9	32.0
1989	682.9	2 224.4	30.7
1991	894.1	2 853.6	31.3
1992	1 006.2	3 075.6	32.7
1993 a/	1 060.8	3 159.1	33.6
1994 a/ b/	1 106.2	3 321.1	33.3

a/ Provisional.

b/ Estimated.

The noticeable increase in social benefits since 1991 is largely due to German unification.

221. The development of the social budget broken down by functions is as follows:

Function	1980	1991	1992	1993	1994
	in billion DM				
Marriage and family	68.6	115.7	129.8	132.7	132.7
Health	155.2	305.7	344.7	353.1	373.1
Employment	27.9	90.3	109.4	126.6	125.0
Old age and survivors	188.8	345.3	381.5	407.5	433.7
Other functions (consequences of political events, housing, saving/formation of capital, general assistance)	39.5	37.2	40.8	41.5	41.7

222. In contrast, the data on the ratio between social benefits and the budget are less informative. In 1995, the individual budget of the Federal Ministry of Labour and Social Affairs showed expenditures totalling DM 130.7 billion; with a share of 28.1 per cent of the total federal budget it was again the highest individual budget item - as it had been for decades. This does not say very much about the ratio between social expenditures and

the public expenditures mentioned, however: neither the individual budgets of other ministries that are also relevant to the sector of social services in whole or in part (for instance the Ministry of Health, the Ministry of Family Affairs, Senior Citizens, Women and Youth and the Ministry for Regional Planning, Building and Urban Development) nor the budgets of the Länder and local authorities are taken into account.

On question 5

223. In Germany private insurance schemes are of a certain relevance only in the context of coverage against the risks of sickness and long-term care; reference is made to the relevant comments on question 3.

On question 6

224. With the exception of maternity benefits and family benefits, the systems of social security described require as a rule that either the beneficiary or a family member obliged to provide for his maintenance is or was engaged in employment subject to compulsory social insurance coverage. A person who is or was not engaged in employment subject to compulsory coverage and who does not have sufficient other income is entitled to social assistance (cf. comments on art. 11 of the Covenant).

On question 7

225. The most important changes since the previous reporting period have already been dealt with under question 3.

On question 8

226. This question is not relevant to Germany.

E. Article 10 - The right of the family, of mothers and of children and of young persons to assistance

On question 1

227. Germany has ratified the international instruments of the United Nations and of the ILO listed in the guidelines with the exception of ILO Convention No. 103 on Maternity Protection (ILO Convention No. 3 on Maternity Protection has been ratified, however). Reference is made to the reports on the application of these instruments which are regularly submitted to the United Nations and the ILO.

On question 2

228. There is neither a legal definition of nor a uniform academic opinion on what is precisely meant by the term "family". When used in everyday life "family" may, in a very wide meaning, refer to the group of people who are related, married or related by marriage to each other regardless of whether they live together in one household or separately, whether the individual members are still alive or already deceased. Regardless of any closeness in terms of place or time "family" may be seen as a succession of generations

having biological, social and/or legal ties. But small groups without biological or legal ties who live together in one household may also regard themselves as a "family".

229. The constituent element of the family concept is the biologically, socially and also legally defined core family structure, namely the father-mother-child relationship. The constituent element of the household concept is the living together of a small group in one household.

230. Taken together, the basic structures of the household and family concepts form the core or small family which is traditionally regarded as "standard family" in the Federal Republic of Germany and in which a married couple living together in one household raises its child or its children until the latter start a life of their own and leave their family of origin. This core family type is still the one which the majority of people experience and/or actively influence for a longer or shorter period in the course of their lifetime and in which the large majority of the children in Germany still grow up.

On question 3

231. Reference is made to section I.A of the first periodic report of the Federal Republic of Germany submitted to the United Nations in accordance with article 44 (1) (a) of the Convention on the Rights of the Child.

On question 4

232. Concerning sub-question (a): By virtue of article 6, paragraph 1, of the Basic Law which provides for marriage and family to enjoy the special protection of the State, the freedom to enter into marriage is made a basic right which is binding on all public institutions, i.e. the legislative, executive and judicial powers, as directly applicable legislation. This guarantee obliges the State to exercise utmost restraint with regard to the establishment of obstacles to marriage and the determination of prerequisites for marriage.

233. Concerning sub-question (b): The State supports the establishment of a family and the raising of children in many ways. In the context of the financial benefits for families, in particular in the context of the equalization of family burdens, the following cash benefits and other concessions may be granted for children. Because of the fundamental reform of the equalization of family burdens, the regulations to be applied as from 1 January 1996 are also described (see in particular 3 (a)).

1. Child benefits

234. Child benefits are payable for all children under 16. For children undergoing training, the receipt of child benefits may be extended until they complete age 27. If military or civilian service or a service which takes the place of these compulsory services is performed during this time and if training is thus interrupted, the maximum period of receipt is extended

accordingly. There is no age limit for children with disabilities. If children have income of their own during training, the parents' entitlement to child benefits is cancelled if such income exceeds certain ceilings.

Child benefit rates up until 31 December 1995 (DM)

Monthly child benefits	Full amount	Reduced amount for parents in higher income brackets a/	Reduced amount for parents in high income brackets b/
For the first child	70	70	70
For the second child	130	70	70
For the third child	220	140	70
For the fourth and each further child	240	140	70

Financing: 100 per cent from the Federal budget.

a/ The threshold that triggers off a reduction is an annual parental net income of DM 45,480 in the case of married couples with two children and DM 37,780 in the case of single parents with two children. For the third and each further child, this income threshold is increased by DM 9,200.

b/ The threshold that triggers off a reduction is an annual parental net income of DM 100,000 in the case of married couples with three children and DM 75,000 in the case of single parents with three children. For the fourth and each further child, this amount is increased by DM 9,200.

235. As from 1 January 1996, regardless of the parents' income, the monthly child benefit amounts to DM 200 for the first and second child respectively, to DM 300 for the third child and to DM 350 for the fourth and each further child. The financing is 74 per cent from the federal budget and 26 per cent from the Länder.

2. Child benefits' supplement up until 31 December 1995

236. Low-income parents receive a child benefits' supplement of up to DM 65 per month and per child. The child benefits' supplement is paid in cases where the tax allowance for children is not or not fully effective because the income is too low. A prerequisite is that there is an entitlement to child benefits. The financing is 100 per cent by the Federal Government.

237. The child benefits' supplement is cancelled with effect from 1 January 1996; it becomes part of the increased child benefits.

3. Other measures

238. Apart from direct transfer benefits for families (in addition to those already mentioned they include also housing allowances, educational

assistance, child-raising allowances, social assistance), there is a whole range of other measures in Germany for the support of families, e.g. tax concessions such as tax allowances for children, education allowances, tax measures to promote housing, etc. but also a free of charge health insurance coverage of family members and many other things.

(a) Tax allowance for children

239. The tax allowance for children was raised from DM 2,484 to DM 3,024 with effect from 1990 and to DM 4,104 with effect from 1992, per child and set of parents.

240. As from 1994, a tax allowance for children may also be deducted for a child that is to be considered for income tax purposes only to a certain extent (child living abroad) but only insofar as such allowance is necessary and adequate in view of the situation in the child's country of residence; this means that allowances reduced by one third or two thirds are also possible. When the prerequisites for the tax allowance for children are met, maintenance payments may no longer be taken into account as an "exceptional burden".

241. The age limit up to which children are taken into account without qualification for the purposes of the tax allowance for children has been raised from age 16 to age 18 with effect from 1992.

242. By virtue of the Annual Tax Law 1996, the equalization of family burdens has been turned into an equalization of family benefits to take effect as from 1996; under the new provisions, the tax allowance for children and child benefits - both of which are to be raised - are genuine either/or alternatives. As from 1996, the tax allowance to be granted for each eligible child amounts to DM 6,264 per year. In the current year, child benefits are always paid as a tax refund. This does not change as long as the payment of child benefits is more favourable for the parents, in view of their income situation, than the tax allowance for children. Whether child benefits are more favourable is examined by the tax office ex officio in the course of the income tax assessment. If the child benefits do not suffice to effect the prescribed tax exemption, the tax allowance for children is deducted and the child benefit payments already made are adjusted accordingly.

243. With regard to the taking into account of children, the necessary harmonization of the child benefits and income tax legislation will lead to the following changes as from 1996. The tax allowance for children will be granted on a monthly basis, i.e. in accordance with the principle that already applies in the legislation on child benefits. Children who have completed age 18 but not yet age 21 are taken into account if they are unemployed and available for placement in Germany. Children who have completed age 18 but not yet age 27 are taken into account if they are in a transitional period between two stages of training which must not exceed four months. Children who perform the statutorily prescribed military or civilian service or another service which exempts them from the first-mentioned services and whose vocational training is thus interrupted are no longer taken into account. However, they may now be taken into account after having completed age 21 or age 27 for a period of time which corresponds to the length of this service.

Children over 18 may not be taken into account if they have income of at least DM 12,000 per calendar year which is meant to or suited to maintain them.

244. Disabled children over 18 may be taken into account without any age limits if, on account of their disability, they are not able to provide for themselves.

(b) Household allowance

245. The household allowance has been raised from DM 4,536 to DM 4,752 as from 1988 and to DM 5,616 as from 1990.

(c) Education allowance

246. The education allowances have been raised, with effect from 1988, to DM 1,800 in cases where the child is under 18 and lives away from home, and DM 2,400 in cases where the child who lives at home is over 18. This amount goes up to DM 4,200 if the child lives away from home. At the same time the exempted amount of the child's own income has been raised from DM 2,400 to DM 3,600.

247. As from 1990, an education allowance may also be granted for children over 27 but still under 29 who performed the statutorily prescribed military or civilian service; such an allowance may be granted together with a tax reduction on the grounds of an exceptional burden due to maintenance payments in the amount of the tax allowance for children.

(d) Tax allowance for fostering

248. The tax allowance for fostering the parents/child relationship has been abolished with effect from 1990.

4. Child-raising allowance

249. Mothers and fathers who look after their newborn child themselves receive a child-raising allowance of up to DM 600 per month. During the period of receipt of this allowance, they may work for up to 19 hours per week. For children born as from 1 January 1993, the child-raising allowance is paid for the first 24 months.

250. The child-raising allowance is a means-tested benefit. If the annual income exceeds DM 29,400 in the case of couples and DM 23,700 in the case of single parents, the child-raising allowance is gradually reduced as from the seventh month onwards. For the second and each further child, this income ceiling is raised by DM 4,200. Parents with a high income are not entitled to a child-raising allowance at all (an annual income of DM 100,000 in the case of couples and DM 75,000 in the case of single parents).

251. The maternity benefits payable to working women are taken into account when the child-raising allowance is calculated. The allowance is financed to 100 per cent from the Federal budget.

5. Child-raising leave

252. Employees, both male and female, are entitled to child-raising leave to look after their newborn child. For children born as from 1 January 1992, a child-raising leave of up to 36 months may be taken. The parents may alternate three times over this period.

6. Maternity benefits

253. During the statutory rest periods - six weeks before and normally eight weeks after the birth of a child - mothers receive maternity benefits if they are in an employment relationship. Mothers who are members of the statutory health insurance receive up to DM 25 per day. The difference between DM 25 per day and the previous net earnings is paid by the employer. The difference is also payable to employees who are not insured against sickness or who have private health insurance coverage. They are also entitled to a lump-sum maternity benefit of DM 400 payable by the Federal Insurance Office.

7. Health insurance

254. Women who have taken a child-raising leave or are in receipt of child-raising allowances continue to be covered by the statutory health insurance on a non-contributory basis if they were subject to compulsory coverage before. The exemption from the payment of contributions is limited to the receipt of child-raising allowances, however. If a person who is in receipt of child-raising allowances or who has taken a child-raising leave engages in part-time employment subject to compulsory coverage, the relevant contributions have to be paid.

255. The statutory sickness funds pay sickness benefits to insured persons for up to 10 workdays (20 workdays in case of single parents) per child and calendar year if, according to a medical certificate, they have to stay at home to mind, look after or care for their child who is sick and covered by the statutory health insurance. A prerequisite is that no other person living in the household can mind, look after or care for the child. Per calendar year, not more than 25 workdays can be claimed by each insured parent, however (a maximum of 50 workdays in case of single parents). Corresponding claims of the insured person on his employer take precedence.

256. Spa treatment for prevention and rehabilitation may be provided for mothers in facilities of the Mothers' Convalescent Society or in similar facilities. The relevant measures may also be taken in the context of a spa treatment for mother and child if this is required for medical reasons.

8. Maintenance advance

257. The maintenance advance fund helps single mothers and fathers in cases where the other parent fails to pay maintenance for the child.

Maintenance advance (= standard rate minus ½ of the child benefit for the first child)	Children under 6 (DM/month)	Children from 6 to under 12 (DM/month)
in the old Länder	256	318
in the new Länder as from 1 January 1996	227	282
in the old Länder	249	324
in the new Länder	214	280

Maintenance advance is paid for a maximum period of 72 months but only for children under 12 years of age.

258. The benefit is financed to 50 per cent by the Federal Government and the Länder respectively. If possible, the State recovers the maintenance advance benefits from the parent who is obliged to provide maintenance.

9. Maintenance for children

259. Parents are obliged to provide for the maintenance of their children. The parent in whose care the child is normally fulfils this obligation by looking after and raising the child whereas the other parent has to cover the material needs of the child. Illegitimate children can thus claim at least the standard rate of maintenance. The standard rate of maintenance is defined as the rate that is normally required to maintain a child who is in his mother's care given a simple standard of living (standard rate); as a rule, it is reduced by half of the child benefits payable for the child.

260. Depending on the age group (up until the completion of age 6/from age 7 up until the completion of age 12/from age 13 up until the completion of age 18) the standard rates in 1995 amounted to DM 291/353/418 in the old Länder and to DM 262/317/376 in the new Länder; as from 1 January 1996, the standard rates in the old Länder have been raised to DM 349/424/502 and those in the new Länder to DM 314/380/451. These standard rates are also deemed to be the minimum rates for legitimate children who have become part of the household of a divorced or estranged parent.

261. In the field of housing and urban development, the issue is to adjust housing and the urban living space to the needs of children. There are few other public tasks which directly influence the human habitat - and thus also that of children - in the same way as urban development. In many places, the urban structures and also the design of housing are not yet sufficiently geared to the needs of children. With the help of the Building Code, however, which is a planning instrument appropriate to many situations, the local authorities may take account of the requirements for a children-friendly environment. The different needs in terms of housing of all categories of persons - including those of children and young persons - are to be taken into account also in the context of the promotion of housing which has its legal basis at the federal level above all in the Second Housing Act.

262. In view of the significance and topical nature of the issue, the Youth Ministers of the Länder dealt with matters relating to housing shortage, the

lack of housing and homelessness of adolescents and young adults at their conference in June 1995. They gave a working group the mandate to present a concept that covers all aspects of housing for children and adolescents.

263. Moreover, the Federal Republic of Germany seeks to make it easier to combine family and working life by numerous measures, for example by laws (Second Equality Act), by means of a three-year child-raising leave with job guarantee for mothers and fathers after the birth of a child, by further extending a nationwide network of child-care facilities and by promoting flexible reduced working time arrangements for male/female workers with family responsibilities.

264. All families benefit from the measures described.

On question 5

265. Reference is made to the detailed information provided in the previous report, to the comments on question 4 and to the reports of the Federal Government on ILO Conventions No. 3 and No. 102 (Part VIII).

On question 6

266. First of all, reference is made to the information supplied in the second periodic report on articles 10-12 of the Covenant and to the reports on the application of ILO Convention No. 138.

267. The minimum age for admission to paid employment is 15 years. Under the legislation, only minor exceptions are permissible, for instance in the context of a school-related work experience in companies, of work in agriculture, the delivery of newspapers, in sports or - with the express approval of the competent authorities - in the context of theatre and music performances, advertising, radio, recordings, filming and photographing. The Federal Government does not have any concrete figures on the number and age structure of the children engaged in paid employment. The number of exemption permits issued by the supervisory authorities of the Länder in accordance with the Act on the Protection of Young Persons at Work (permissible child labour) and the number of established violations of the ban on child labour give certain indications, however. In the years 1984 to 1988 (more recent data are not available), the competent authorities issued a total of 20,411 exemption permits for artistic events and advertising (school-related work experience in companies, work in agriculture and at sporting events and the delivery of newspapers which do not require formal exemption permits are not covered in this context). Specific data are not available on the number of cases of violations of the ban on child labour.

268. Insofar as violations of the ban on child labour were registered and statistically recorded in the old Länder in relation to the years 1979 to 1991, the following picture emerges:

Baden-Württemberg:	637	(1979-1990)
Bavaria:	899	(1979-1991)
Berlin:	253	(1979-1991)

Hamburg:	298	(1983-1991)
Lower Saxony:	181	(1987-1991)
North-Rhine Westphalia:	4,763	(1981-1991)
Rhineland-Palatinate:	114	(1979-1982)
Saarland:	10	(1979-1988)

269. Since data on violations of the ban on child labour are not available for all old Länder and since the existing data do not always relate to the whole of the period from 1979 to 1991, it is not possible to calculate an average of the annually established cases of unlawful child labour in the old Länder. On the basis of the data available, it seems to be realistic to estimate that between 600 and 1,200 cases of unlawful child labour are established per year.

270. Up until now, the new Länder have not been able to submit data on the number and nature of the violations of the ban on child labour for the period as from 3 October 1990. Only Thuringia reports nine cases of unlawful child labour that have occurred since 1990.

On question 7

271. Reference is made to the information provided on question 4 and to the reports of the Federal Government on the application of the international instruments listed in the reply to question 1.

On question 8

272. This question is not relevant to Germany.

F. Article 11 - The right to an adequate standard of living

Preliminary remarks

273. With regard to the aim of a general improvement of living conditions pursued by article 11, paragraph 1, of the Covenant, it is worth mentioning that in the context of the constitutional reform of 1994 the protection of the natural sources of life was made a public objective by virtue of the Basic Law. The newly inserted provision reads as follows:

> "Article 20 a (Protection of the natural sources of life)
>
> "The State, aware of its responsibility for present and future generations, shall protect the natural sources of life within the framework of the constitutional order through the legislature and, in accordance with the law and the principles of justice, the executive and the judiciary."

This provision, which makes the protection of the natural sources of life a public objective, gives the legislator the mandate to realize the protection of the environment, and at the same time lays down an obligation to take

account of the latter as being equal in value to the other objects of constitutional protection when applying and interpreting rules of law in the other areas of public action.

On question 1

274. The majority of the individual questions raised are either not relevant to Germany or - since they defy any reliable statistical recording - not covered by official statistical investigations. Thus, there is no "poverty line" in Germany and consequently, no calculation of the per capita Gross National Product "for the poorest 40 per cent of the population". In the following, some statistical data are therefore provided which are normally regarded as indicators for the development of the standard of living of the population. Subsequently, as a follow-up to the comments in the second periodic report on articles 10-12 of the Covenant, the developments in the field of social assistance are described.

Gross National Product per inhabitant (in DM)

1984	28,842
1989	36,239
1994 (provisional)	44,761

Disposable income of private households per inhabitant (in DM)

1984	18,469
1989	22,465
1994 (provisional)	28,114

Private consumption per inhabitant (in DM)

1984	16,366
1989	19,673
1994 (provisional)	24,992

Cost of living index (1985 = 100)

	1984	1989	1994
All private households	98.0	104.2	123.5
Four-person household of salaried employees and civil servants in the higher income brackets	97.9	104.9	124.5
Four-person household of workers in the middle income brackets	98.0	103.9	122.8
Two-person household of pension and social assistance recipients	98.1	104.0	123.3

1. Developments in the field of social assistance

275. According to a first preliminary calculation of the Federal Statistical Office, the gross expenditures for social assistance will amount to DM 49.6 billion in 1994 including DM 43.0 billion in the old Länder and DM 6.5 billion in the new Länder. These figures do not include the benefits for those foreigners who, up until October 1993, received benefits under the Federal Social Assistance Act (Bundessozialhilfegesetz - BSHG) and afterwards under the Act on Benefits for Asylum Seekers. In 1993, the social assistance expenditure amounted to a total of DM 48.9 billion including DM 43.0 billion in the old Länder.

276. Since the entry into force of the BSHG a continuous increase has been observed. In 1963, the social assistance expenses still amounted to DM 1.86 billion, but 10 years later (1973) they had tripled and reached DM 5.66 billion. By 1983, the total expenditure had risen to DM 17.57 billion, i.e. it was again three times as high as the amount recorded 10 years before (old Länder). The strongest rates of increase were recorded in the first half of the 1970s. In contrast, the increase in expenditures has on the whole been comparatively moderate since the second half of the 1980s. Nonetheless, the increases in expenditure over the past few years, especially in the field of residential homes, have imposed a disproportionately high burden on the funds bearing the costs. Measured against the whole of the benefits of the social budget, the share of social assistance amounted to 3.1 per cent in 1980. By 1993, this share had risen to 4.6 per cent.

277. The above-mentioned figures refer to the gross expenses; to get an idea of the factual burden imposed on the public budgets by social assistance, the "net expenses" which remain after deduction of the income of the social assistance funds have to be considered. The income of the funds results above all from reimbursements made by other social benefit funds (1993: 9.2 per cent of the gross expenses), co-payments and/or refunds of expenses made by the beneficiaries or their relatives (1993: 5.9 per cent). Together with less significant sources of income (for example, from transferred claims of persons liable to provide maintenance), this leads to an income that covers between 18 and 24 per cent of the gross expenses, a share which has remained relatively constant over many years. In 1993, the income of the social assistance funds covered 17.9 per cent of the gross expenses in Germany, namely 16.0 per cent in the old Länder and 31.6 per cent in the new Länder. The net social assistance expenses in 1993 thus amounted to a total of DM 40.2 billion including DM 36.2 billion in the old Länder and DM 4 billion in the new Länder.

278. Social assistance in the narrower meaning, i.e. the regular assistance to cover living expenses, amounted to DM 17 billion in 1994 and thus accounted for the smaller share of the financial expenditure (34 per cent). The larger share of the expenses, DM 32.6 billion (66 per cent) is to be attributed to the assistance in special circumstances, above all to the assistance to persons in need of long-term care in the amount of DM 17.8 billion (36 per cent), to the integration assistance for disabled persons in the amount of DM 12.3 billion (25 per cent) and - to a considerably

smaller extent - to the assistance during sickness in the amount of DM 2 billion (4 per cent). Only about DM 545 million (1 per cent) were spent on the other types of assistance in 1994.

279. The financing of social assistance is regulated by the Länder. The benefits of the local social assistance funds (above all the assistance to cover living expenses) are paid for by the local authorities; they are financed from their revenue such as the local authorities' share in various taxes, the land and local business taxes and the allocations received in the context of the revenue equalization between the local authorities. The benefits of the regional funds (the major share of the assistance in special circumstances) are partly financed by the Länder and partly by the local authorities - the corresponding regulations vary between the different Länder.

280. At the end of 1993, which is the most up-to-date key-date, 2,450,000 persons in private households were in receipt of regular assistance to cover their living expenses. In the old Länder, the number of recipients amounted to 2,160,000 which means that it had risen to more than three times the amount recorded 20 years before (at the end of 1973: 676,000 recipients). As against the year before, the number of recipients outside homes and institutions went up by 5.5 per cent in the old Länder. In contrast, the number of persons in institutions who were in receipt of regular assistance to cover their living expenses went down (by approximately 20 per cent).

281. In the new Länder a total of 287,877 persons were in receipt of regular assistance to cover their living expenses outside homes and institutions at the end of 1993. This corresponds to a slight decrease as against the year before. In relation to the number of inhabitants, the share of recipients amounts to 3.3 per cent (West) and 1.8 per cent (East) of the resident population on the basis of these figures.

282. If all persons who were in receipt of social assistance in the course of a year (even if only for a short period of time) were taken into account, the total number for the year 1993 would amount to 5 million social assistance recipients in Germany including 4 million persons who were in receipt of regular assistance to cover living expenses - 3.4 million in the old Länder and 545,157 persons in the new Länder including East Berlin. Assistance in special circumstances was given to a total of 1.9 million persons including 1.66 million in the old Länder and 254,618 persons in the new Länder. This means that four fifths of the social assistance recipients were in receipt of assistance to cover living expenses and about 40 per cent were given assistance in special circumstances, in some cases in addition to the first-mentioned assistance to cover living expenses.

283. The total number of persons who received benefits of "social assistance" in the widest sense in the course of a year is less informative than the number on the key-date. On the one hand, the very heterogeneous types of assistance have to be considered in a differentiated way, and on the other hand, the accumulated annual total gives a distorted picture.

2. Causes of the need for social assistance

284. In the course of the 1970s, unemployment rose drastically; approximately since the early 1980s, this problem has also been reflected in the social assistance statistics in the form of cases where the benefits of the unemployment insurance - which is competent in the first place - did not suffice to cover the needs and social assistance was required mostly as a supplementary benefit. In 1980, 1 in 10 households in receipt of social assistance named "unemployment" as the major cause but in 1990, this factor led to the receipt of social assistance in one third of all cases. To a considerable extent, however, social assistance was only meant to bridge the short period of time needed by the employment services to process an application and initiate the payment of unemployment benefits. In the course of the planned reform of the Federal Social Assistance Act it is envisaged that in future the employment service is to make advance payments in such cases. In contrast, the receipt of social assistance by long-term unemployed persons is seen as problematic since their chances of returning to the labour market continue to decrease the longer they are unemployed.

285. Insufficient insurance and pension claims in the old Länder and insufficient income from work in the new Länder come second in the statistics of major causes.

286. In the new Länder, unemployment is the major cause in all household types; in the old Länder, it is named as the major cause mainly by families and single men whereas single mothers refer to the fact that the breadwinner is no longer available and (mostly elderly) women who live alone to insufficient insurance and pension claims as the major causes. The last-mentioned cause, which is mainly related to insufficient old-age and widows' pensions, was alleviated in the new Länder by pronounced pension increases (and partly by the granting of social supplements). Statistically, this is reflected in a very small share, namely 3.2 per cent, of elderly women (aged 65 and over) in the total number of women in receipt of assistance to cover living expenses (as against 10.3 per cent of the female recipients in the old Länder).

287. Up until November 1993 the item "other causes" included a considerable share of asylum seekers, which becomes obvious when looking at German and foreign recipients in a differentiated way. In the new Länder the share of foreign recipients (just like the share of foreigners in the population as a whole) is considerably lower than in the old Länder. As a result of the Act on Benefits for Asylum Seekers it is to be expected that in future statistics the "other causes" will go down to about one fourth of the entries (in line with their prevalence among German recipients).

288. To supplement the comments made in the second periodic report the following information is supplied on changes in the legislation on social assistance.

289. The measures that are suited to overcome the need for social assistance have been expanded. In particular, the instruments and the procedure for providing help to earn money from work have been reinforced, and a

(restricted) obligation to offer and make use of counselling, above all counselling about possible ways out of the need for social assistance, has been legally enshrined.

290. The costs of residential accommodation, e.g. in nursing homes or institutions for disabled persons, which have risen steeply, are assumed on the basis of a new formula. Instead of the principle of cost coverage, "prospective" rates ("per diem rates") have to be agreed upon. Such fixed rates are meant to improve the efficiency of the institutions, to extend their scope of action and to give those in need of assistance the possibility to compare the services offered. These changes are related to the introduction of the general long-term care insurance which, in addition, relieves the social assistance scheme of considerable costs.

291. Regulations have been adopted, e.g. on a comparison of data with other authorities and agencies, with the aim of establishing a person's need for assistance more precisely and more easily while respecting the requirements of data protection.

292. A number of measures to simplify administrative procedures are meant to enable the competent social assistance offices to give persons in need of help more personal assistance than has been possible up until now and, above all, focus more strongly on ways out of the need for assistance. Major simplifications include the elimination of several cost reimbursement regulations, the specification and - not yet finalized - standardization of non-recurring benefits and reinforced cooperation with other authorities and agencies.

293. The Federal Social Assistance Act is no longer applicable to asylum seekers and other foreigners without a consolidated residence status in the Federal Republic of Germany. They now receive benefits under the Act on Benefits for Asylum Seekers dated 30 June 1993 which are graded as high as or slightly lower than the benefits of the social assistance scheme. The reduction is due to the fact that social integration assistance is not granted to persons who typically stay in the country only for a short period of time. Moreover, the provision of benefits in kind now has priority over cash benefits in such cases particularly since cash benefits were often used inappropriately to pay for "traffickers".

294. New statistics have been introduced both for the social assistance scheme and for the new Act on Benefits for Asylum Seekers which make it possible to assess more precisely the scope of persons concerned, the benefits and whether they are effectively targeted, and the developments. Of particular importance is the development of the standard rates which are meant to cover the living expenses of people in need insofar as they cannot meet these costs themselves; the standard rates do not include the costs of housing and heating and those of non-regular needs such as clothing and household effects which are assumed separately.

295. Section 22 (3) of the BSHG provides that the competent Land authorities shall fix the standard rates annually on 1 July (this is also the date of the pension adjustment) taking into account the factual cost of living of low-income recipients; this provision has been applicable since 1990 when the

statistics model replaced the market basket model for the assessment of needs. The reference group of this assessment procedure is the sub-group of those persons questioned in the income and consumption sample (Einkommens- und Verbrauchsstichprobe - EVS) who are just above the social assistance threshold (as it applies at the time of the review); the statistical average of their expenses (in certain areas that are relevant to the standard rate) is used as an orientation value for the determination of the needs. Since the EVS data are collected at five-year intervals a structural review of the standard rates is only possible every five years. In the years between surveys the rates have to be updated while taking account of the factual cost of living. In the context of the envisaged reform of the social assistance scheme it is planned to calculate this annual adjustment in future (as from 1999) on the basis of a "standard rate formula" which takes account of the state and development of the net incomes, the consumer behaviour and the cost of living.

296. Standard rate increases in the period from 1 July 1993 to 30 June 1996 were subject to the following provision: "In the period from 1 July 1993 to 30 June 1994 the standard rates applicable since 1 July 1992 shall be raised on a half-yearly basis by a total of 2 per cent. In derogation of paragraph 3, third sentence, the standard rates may be raised by up to 2 per cent in the periods from 1 July 1994 to 30 June 1995 and from 1 July 1995 to 30 June 1996 respectively but at the most by the amount of the expected development of the average net payroll per employed worker in the Federal territory not including the new Länder in the years 1994 and 1995." (s. 22, para. 4 of the BSHG).

297. In 1963, the basic standard rate amounted to DM 108 on an annual average; in 1995, it was almost five times as high at DM 522 on an annual average (in the old Länder). If the price development over this period of time is taken into account, however, the basic standard rate rose by about 60 per cent in terms of real value. Over the last 10 years the standard rates rose by 12 per cent in terms of real value; an all-time high was reached in 1993. In the new Länder, the basic standard rate went up from DM 423 in 1991 to DM 504 in 1995 on an annual average.

On question 2

298. Concerning sub-question (a): In Germany the right to adequate food has been generally realized for many years. As a highly developed industrial State Germany has to deal with the diseases of modern civilization, also and particularly with the overnutrition of large sections of the population and the corresponding secondary diseases. Underweight in individual cases is not to be attributed to hunger as an economic problem but rather to a false diet on the part of the relevant persons.

299. Concerning sub-question (b): By order of the Federal Ministry of Health and the Federal Ministry of Food, Agriculture and Forestry, the German Food Society works out a "food report" at four-year intervals which consolidates the relevant data. Furthermore, the Federal Government annually submits a report on agriculture which also describes the supply of the population with important foods.

300. Concerning sub-question (c): No changes in national policies, etc. have occurred.

301. Concerning sub-question (d): A sufficient supply of the population with foods is guaranteed.

302. Concerning sub-question (e): Reference is made to paragraphs 298 and 301. In Germany, there is no need for measures to improve the methods of production, conservation and distribution of food by making full use of the technical and scientific knowledge in order to contribute towards the realization of the right to sufficient food since this right has already been realized. Nonetheless, the methods of production, conservation and distribution of food are also further developed in the context of general scientific and technical progress. Issues of the protection and preservation of resources for the production of foods become increasingly important in this respect.

303. Concerning sub-question (f): The Federal Government makes available more than DM 10 million per year to inform consumers about the principles of nutrition, i.e. a healthy and needs-oriented diet, and about efficient housekeeping. These funds are used, above all, to finance information material (brochures, leaflets), electronic media contributions and computer-based teaching programmes but also experts on individual counselling. The information thus offered is accessible to all groups of the population - to an increasing extent also via the Internet.

304. Concerning sub-question (g): Measures of agrarian reform are not relevant to Germany.

305. Concerning sub-question (h): In 1992, the European Community decided on a reform of its agricultural policy which has far-reaching consequences for the relations with third countries and with the developing countries. The reform of the Common Agricultural Policy was a success. A drastic reduction of surpluses has been achieved. With the reform of its agricultural policy, the European Community created the prerequisites for bringing the GATT negotiations to an end. It was decided to gradually remove trade distorting measures of support in agriculture as well as the export refunds. The reduction of the export refunds and of the subsidized export quotas will increase the chances of the developing countries becoming more actively involved in the world market in future. The removal of measures of protection from external markets and the introduction of a minimum market access for third countries at the rate of 5 per cent of the domestic consumption will improve the chances of the developing countries selling their products on the markets of the industrial nations where the purchasing power is strong.

306. The developing countries have been allowed to remove their protective measures in agriculture on a smaller scale and over a longer period of time than the industrial nations. The least developed countries are exempted from any obligation of removal.

307. Rising prices on the global market that are to be expected as a result of the removal of the export subsidies of the industrial nations offer an incentive to farmers in the developing countries to increase their production.

308. The development aid policy of the Federal Government attaches great importance to the reduction of structural food deficits in the developing countries. For this purpose, there are food security programmes which are meant to ensure the supply of food at times of crisis by means of safety reserves, early warning systems, market and price monitoring and crisis management, and there are integrated food security programmes which focus on families living in the poorest regions of the developing countries with the aim of helping them secure their food supply by themselves.

309. To alleviate hunger in emergencies and in the context of long-term food security measures in developing countries Germany grants extensive food aid on a bilateral basis, through the European Community and through international organizations (in 1994 in the value of DM 543.2 million in total).

On question 3

310. As regards the right to adequate housing, reference is made to the comments on article 11 in the first and second periodic reports on the application of articles 10-12 of the Covenant and to the national report prepared by Germany for the HABITAT II Conference. This report, which is attached as annex 5, includes, inter alia, detailed information on the following issues:

(a) Housing supply, level of rents and housing stock (paras. 2.4.1 and 2.4.2);

(b) Measures to improve the living and housing conditions of disadvantaged groups (single parents and their children, elderly people, foreigners and ethnic Germans from Eastern Europe, homeless persons, people in mobile forms of housing on the margins of legality; para. 4.2.2);

(c) Statutory and other measures to provide and secure an adequate supply of housing for all (chap. 4.3).

On question 4

311. Insofar as the replies to questions 1-3 do not refer to any difficulties in the implementation of article 11, such difficulties have not arisen.

On question 5

312. This question is not relevant to Germany.

G. Article 12 - The right to health

Preliminary remarks

313. General reference is made to the report "Health for all by the year 2000" submitted by the Federal Government in May 1994 to the Regional Office for Europe of the World Health Organization. In the following, summarized statements from this report are used to reply to questions 1, 4, 5 (g) and 8 on article 12 of the Covenant.

On question 1

314. The subjective state of health as assessed by the population itself is good. The most recent collection of data (1992)* provides the following figures:

Assessment of the state of health

	TOTAL n = 7,463		MEN n = 3,662		WOMEN n = 3,801	
	Absolute	Share in %	Absolute	Share in %	Absolute	Share in %
Very good	483	6.5	253	6.9	229	6.0
Good	2 890	38.7	1 466	40.0	1 424	37.5
Satisfactory	3 008	40.3	1 467	40.1	1 541	40.5
Not so good	896	12.0	369	10.1	527	13.9
Bad	186	2.5	107	2.9	79	2.1

Only about 15 per cent of the total population describe the state of their health as not so good or bad; about 45 per cent feel very good or good. The number of ailments indicated by women is slightly higher than that of men. As expected, the shares of those who feel less good go up with age.

315. Despite the fact that on average the state of health of the German population is good, many people live with chronic diseases or indicate that they have suffered from intermittent attacks of chronic diseases. In this respect, there are differences between the population in the old and the new Länder. In the new Länder, a total of 82.7 per cent of those questioned stated that they suffered or had suffered from one or several chronic diseases. In the old Länder, the relevant share amounted to 91.5 per cent. This depends, of course, on age and sex. For men and women alike, the causes of this chronic morbidity include above all cardiovascular diseases, diseases of the muscular and skeletal systems and rheumatic diseases as well as diseases of the digestive system, of the urogenital system and various allergies. For women, diseases of the thyroid gland have to be added to this list. The way in which the state of one's own health is assessed proves that it is quite possible to live and cope with diseases: only a small share of those concerned express discontent with their situation in life.

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* The data used come from the National Health Survey of the German cardiovascular prevention study that was carried out in the old Länder in 1990/91, and from the National Health Survey New Länder (1991/92). In the course of these surveys, the adult German population underwent standardized medical examinations and extensive questioning.

On question 2

316. Germany does not have a "national" health policy but a federal pluralistic health-care system. Health-care matters are to a large extent within the competence of the Länder. Furthermore, special tasks have been assigned to the local authorities and to corporations under public law. The statutory sickness funds are of particular importance (see the comments on art. 9). For these reasons, Germany has not adopted a commitment to the WHO primary health-care approach as part of its health policy. Rather is the WHO strategy a high quality guide including a wide range of valuable suggestions and ideas that are taken into account in the context of the federal health-care system to as large an extent as possible.

On question 3

317. The reply to question 4 on article 9 of the Covenant explains why it is not very informative to compare the expenditures for social benefits with the budget. It also includes information on the development of the social budget and of the social spending ratio for the years 1980, 1991, 1992, 1993 (provisional) and 1994 (provisional, estimated).

318. The functions of the social budget also include health. If the expenditures for the function "health" are singled out and compared with the Gross Domestic Product, the following "health-care spending ratio" may be established for the said years:

1980: 10.5 per cent
1991: 10.7 per cent
1992: 11.2 per cent
1993: 11.2 per cent
1994: 11.2 per cent

In the same period of time, the share of the health-care costs in the social budget showed the following development:

1980: 32.3 per cent
1991: 34.2 per cent
1992: 34.3 per cent
1993: 33.3 per cent
1994: 33.7 per cent

On question 4

319. Concerning sub-question (a): The infant mortality rate per 1,000 live-born children has gone down considerably over the last 40 years both in the old and in the new Länder including East Berlin. Of 1,000 live-born children in 1950, 55.3 infants died in the first year of their life in the old Länder and 72.2 infants in the former German Democratic Republic. In the year 1991, the infant mortality rate amounted to 6.7 in the old Länder and to 7.2 in the former German Democratic Republic per 1,000 live-born children.

Infant and maternity mortality rate - the developments from 1950 to 1992

Year	Infant mortality rate (per 1 000 live-born children)		Maternity mortality rate (per 100 000 live-born children)	
	Old Länder	Former GDR	Old Länder	Former GDR
1950	55.3	72.2	-	-
1960	33.8	38.8	106.3	98.0
1970	23.4	18.5	51.8	43.0
1975	19.7	15.9	39.6	23.1
1980	12.7	12.1	20.6	17.5
1985	8.9	9.6	10.7	16.7
1987	8.3	8.7	8.7	12.1
1989	7.5	7.6	5.3	12.1
1990	7.1	7.3	7.3	16.2
1991	6.7	7.2	8.6	9.3
1992	6.03	6.3	6.2	10.2

320. Sub-questions (b), (c), (d), (f) and (h) do not call for a reply from Germany.

321. Concerning sub-question (e): At the beginning of this century, the life expectancy of a male infant amounted to 44.8 years and that of a female infant to 48.3 years in Germany. As a result of the decrease of the infant mortality rate, the life expectancy of an infant went up and amounted to an average of 72.55 years for men and 78.98 years for women in the old Länder in 1988/90. In the former GDR, the life expectancy of an infant amounted to 70.03 years for men and 76.23 years for women in 1988/89.

322. A comparison between the Länder reveals differences of more than two years. Berlin-West had the lowest life expectancy with 70.68 years for men and 77.49 years for women whereas it was highest in Baden-Württemberg with 73.37 and 79.72 years. In the former GDR, the life expectancy amounted to 69.81 and 75.91 years at about the same time (1987/88) and rose to 70.13 years for men and 76.38 years for women in 1989.

323. Concerning sub-question (g): As regards the maternity mortality rate, reference is made to the figures provided in paragraph 319. Apart from this, there is no need for Germany to reply to sub-question (g).

On question 5

324. There are no indications that there are any groups in the population in Germany whose health-care situation is significantly worse than that of the majority of the population. Consequently, there is no need to reply to sub-questions (a) to (d) and (i).

325. Concerning sub-question (e), the statutory health insurance offers preventive health-care measures. They include, inter alia, preventive measures for expectant mothers and examinations for the early detection of diseases in children. During pregnancy and after confinement, insured mothers are entitled to medical care and to assistance by a midwife. The purpose of the preventive examinations during pregnancy is to help to detect and treat in time any changes that may be harmful to the mother's or the child's health. The pregnant woman is issued a "mother's passport" by her doctor which includes a precise schedule for at present 10 examinations during pregnancy and in which all important results of these preventive examinations are recorded.

326. Up until the completion of age six, insured children are entitled to examinations for the early detection of diseases which considerably endanger their physical or mental development. The early detection programme for infants and small children comprises nine medical examinations to be carried out in the time from birth up until age six on the basis of a fixed schedule. Apart from diseases in newborn children, these examinations are meant to identify metabolic disturbances, developmental and behavioural disturbances or diseases of the nervous system, the sense organs and the teeth. The Health Care Reform Act of 1989 also facilitated outpatient access to the socio-paediatric centres which are headed by paediatricians and specialize in the early diagnosis and treatment of disabled children or children threatened by a disability. The chances of detecting cases in which the development of a child's health is at risk have thus been improved.

327. Concerning sub-question (f), reference is made to the information provided in the previous report and to the comments made on article 7 (question 3) and in the following concerning sub-question (g).

328. Concerning sub-question (g): In 1987, the Federal Government launched an immediate action programme to combat AIDS which is centred on efforts to protect the population against HIV infection and on the best possible counselling and care for infected and sick persons. The major concern is to avoid segregation of and discrimination against those concerned. Apart from the setting up of AIDS counselling centres in almost all health offices in the old Länder, media-based education and information campaigns and various research projects which are supported by the Federal Government have to be mentioned in this context.

329. The action programme to promote non-smoking - presented in July 1990 - is last but not least meant to help achieve the objectives laid down in the WHO programme "Health 2000". Environmental hygiene is increasingly centred on the interior (dwellings, non-commercial workplaces, interior of vehicles, etc.). Consequently, a further priority is an improved protection

of non-smokers to which a number of federal regulations on public transport have contributed. As a rule, workers are legally entitled to measures for the protection of non-smokers at work.

330. The preventive examinations prescribed by the Act on the Protection of Young Persons at Work, the Hazardous Substances Ordinance and the Accident Prevention Regulations as well as the examinations which a doctor with a qualification in occupational health regards as necessary on the basis of the Safety and Health at Work Act are meant to protect the population against work-related diseases. The degree of coverage depends on the potential risks of the companies and the respective number of employees. The aim is complete coverage of all employees.

331. As regards the fight against cancer, it has to be mentioned that the Federal Government convened the first large-scale conference on cancer in 1979 and worked out an "Integrated programme for the fight against cancer" together with all committed circles from the medical profession, the sciences, the health-care sector and from the fields of health and social policy, including the self-help organizations. The programme has been continuously updated and further developed. In the fields of prevention, care as well as research and training 12 working groups tackle almost all areas in which progress may be achieved by means of coordination and the cooperation of all those concerned. The priorities include, inter alia:

(a) Measures to improve the data on the incidence of the various types of cancer;

(b) Health education and information measures including the drafting of recommendations on the basis of epidemiological assessments;

(c) Measures to improve and implement the findings on work-related cancer;

(d) The further development of measures for the early detection of cancer, in particular of screening methods for certain types of cancer;

(e) Measures to improve the structural prerequisites for the provision of care for cancer patients both in the outpatient and in-patient sectors, including preventive measures;

(f) The promotion and coordination of cancer research taking into account unorthodox methods of the fight against cancer.

332. The "Integrated programme for the fight against cancer" is also meant to implement and support the EU programme "Europe against cancer" at the national level.

On question 6

333. The information provided on the health and long-term care insurance (cf. art. 9 of the Covenant) and on assistance during sickness granted under

the social assistance scheme (cf. art. 11 of the Covenant) indicates that there is no need to worry about an infringement of the right of elderly people to health as a result of the rising costs of health care.

On question 7

334. This question is not relevant to Germany.

On question 8

335. Apart from the provision of curative treatment, it is necessary to reinforce preventive health care, inter alia, by informing citizens about possibilities for the promotion of health and the prevention of diseases and by encouraging them to lead a healthy life in order to effectively combat the most widespread major diseases of our day. In the Federal Republic of Germany, health education and information are therefore regarded as important elements of a prevention-oriented health policy.

336. In the Federal Republic of Germany, numerous and diverse media such as brochures, exhibitions and films but also courses and counselling programmes are available which concentrate on the following priority issues:

(a) Health promotion during pregnancy and confinement, for infants and small children and health education at school. Health risks are meant to be detected at an early stage and ways of life which are conducive to health are to be learned from the outset;

(b) To eliminate patterns of behaviour which are health risks such as nicotine and alcohol abuse, malnutrition and overnutrition, a lack of exercise;

(c) To reinforce prevention-oriented behaviour in general;

(d) To support chronically ill persons, disabled persons and their relatives in coping with the disease, for example.

337. In accordance with the Ottawa Charter, the decisive starting-point for the promotion of health is where the people live. This is why "multipliers" are used to try and make measures work at the grass roots, i.e. at the workplace, at school and in the community. Their purpose is to help the people to assume responsibility for their own health and for that of the people close to them and to make adequate use of the health-care system. Further training measures and curricula are available for the qualification of multipliers (e.g. doctors, parish priests, teachers, social workers, staff members of drug counselling centres, houses for battered women or self-help groups) in health education. The cooperation includes a mutual exchange of experience, a feedback on the needs at the grass-roots level and the joint development of needs-oriented programmes.

338. Apart from regular offers such as programmes to give up smoking and to fight against overweight, implemented mostly in cooperation with Länder, associations, sickness funds and institutions for adult education, there is always quite a number of special offers (e.g. "alcohol and work"). To develop

and review education concepts and information strategies, scientific studies are carried out; selected measures are evaluated. Priority issue campaigns of the last few years included:

Promotion of non-smoking;

Primary prevention of alcohol and drug abuse (meant above all for young persons);

AIDS education campaign involving large-scale use of mass and personal communication measures.

On question 9

339. This question is not relevant to Germany.

H. Article 13 - The right to education

On question 1

340. Concerning sub-question (a), the share of children covered by primary education amounts to 100 per cent. Education is free. The required teaching material is either provided free of charge or lent to the pupils. All Länder have regulations governing the transport of pupils from home to school. On the one hand travelling costs, as a rule for public transport, may be reimbursed, on the other hand, transport services may be established under certain circumstances. In this way, equal opportunities are to be realized between the social strata, between urban and rural areas and between non-disabled and disabled children. The transport of the pupils must be economically efficient for the bearer of the costs, and it must not place undue hardship on the pupils. A right to transport exists only in cases where there is a certain distance between the pupil's home and his school. In this respect, the regulations of the Länder vary slightly; for children in primary education, a minimum distance of two kilometres is mostly required.

341. In the Länder of the Federal Republic of Germany the schools are also attended by a large number of children of foreign workers. The children of foreign workers have the same rights and duties as German children. Owing to their special language and cultural situation it is often more difficult for the children of foreign workers to adapt to the school environment and other circumstances. In many cases, these children are still rooted in the cultural tradition of their parents' country of origin, and they do not always receive the same support at home as children in German families. To overcome these difficulties various measures have been taken. They include:

(a) The establishment of special classes (preparatory classes) with both the mother tongue and German as teaching languages;

(b) The provision of remedial lessons and intensive courses;

(c) Supportive measures outside school such as homework assistance, play afternoons, etc.;

(d) The development of suitable teaching material for foreign pupils;

(e) The recruitment of teachers from the countries of origin of foreign workers;

(f) Measures to prepare German teachers for the special pedagogic and didactic problems of teaching children of foreign workers.

342. Concerning sub-question (b): the second periodic report on the implementation of articles 13 to 15 of the Covenant supplied detailed information on measures taken to give all pupils access to education - hence also to secondary education - regardless of their financial situation. It should be stressed once again that education is free and that pupils are entitled to financial assistance under certain circumstances.

343. Provision has been made in the general secondary school system to enable pupils to change from one type of school to another without any loss of time and thus avoid misdevelopments (the establishment of so-called orientation levels and transfer possibilities in all grades). Full-time vocational schools are open to everyone who meets the requirements for admission (compulsory education leaving certificate or leaving certificate of an intermediate secondary school, work experience if applicable).

344. The policy for the integration of foreigners who lawfully reside in Germany has a positive impact on the secondary education of the second and third generation of foreigners. The number of young people in medium or higher-level secondary education is rising and, consequently, they account for an increasing share in the number of high-grade certificates. A priority of integration policy is in particular measures to support the transition from school to working life of the second and third generation of foreigners. In addition to the regular measures of the Federal Employment Service for the support of disadvantaged persons, young foreigners are offered vocational orientation and pretraining measures. This includes the possibility to catch up on an education certificate, e.g. the compulsory education leaving certificate (cf. the comments on art. 6).

345. The field of vocational training/retraining is particularly suited to foster the living together of foreigners and Germans and to work against discrimination and prejudice. This is done, for instance, in vocational training/retraining measures of the BMA in mixed groups of Germans and foreigners by making use of cooperative learning and working. Furthermore, in the context of projects for the social and vocational integration of foreigners, joint activities with German projects and groups, including young Germans who are susceptible to xenophobia, are promoted. In this way, a contribution may be made towards improving mutual tolerance and acceptance and increasing the self-esteem of the young foreigners.

346. The Registered Language Association German for Foreign Workers which is supported by the Federal Ministry of Labour and Social Affairs also offers language courses, including literacy programmes. In this context, the role of literacy measures in the mother tongue as a basis for learning German has to

be emphasized. Over 80 per cent of those participating in these courses were women, 75 per cent of the participants came from Turkey, 7.3 per cent from Morocco.

347. Concerning sub-question (c): A German national is entitled to pursue higher education of his choice on condition that he has the necessary qualification for access. Evidence of such qualification is the certificate awarded at the end of school education preparing the pupil for higher education. A basic prerequisite for the admission of foreigners to a German university is an adequate education - proof of which is furnished, in case of a German applicant, by the Abitur or university entrance qualification (secondary education leaving certificate) - or they have to pass an additional examination to establish that they are qualified for higher education.

348. As a result of the development of the educational system the proportion of pupils in an age group who qualified for access to higher education rose from 8 per cent in 1965 to about 35 per cent in 1994 in the Länder of the Federal Republic of Germany. An education that leads from senior technical schools or other secondary technical schools on to higher technical education is a factor, among others, that plays an important role. As a rule, it is necessary to have followed 12 years of school education and to have passed a final examination (entrance qualification for higher technical colleges) to have access to a higher technical college. Nowadays, however, almost half of the new students at higher technical colleges have general university entrance qualifications which also entitle them to take up studies at a university. A leaving certificate from a higher technical college entitles the holder to continue his studies at a university or equivalent higher education institution. As a rule, any applicant who has the required entrance qualification is admitted to a public university where no tuition fees are payable. Only in some subjects which are very much in demand do national or local restrictions on registration exist.

349. Selection criteria both for the central and local selection procedure include above all the applicant's average mark in the secondary education leaving certificate and the waiting time between the secondary education final examination and the application for university studies. Additional criteria (tests, selection interviews) exist in medical subjects. If the places for studying a certain subject are allocated on a centralized basis both foreign applicants from EU member States and Germans have to submit their applications to the Central Office for the Allocation of University Places. An application for a place to study a medical subject may only be submitted after participation in a test.

350. Concerning sub-question (d): In Germany there is virtually full compliance with the compulsory schooling requirement. However, there are always people who, because of poor educational achievements or for other reasons, have not sufficiently mastered the basic cultural techniques. For this category of people special adult education courses are held at adult education centres which receive financial support from the Federal and Land governments.

351. As regards supportive measures in education for disabled persons and young foreigners, reference is made to the very detailed information supplied

in the second periodic report on articles 13 to 15 and, with regard to young foreigners, to the comments on question 1 (h) in the present report. The number of young foreigners who take part in vocational training in the dual system has risen considerably over the last few years, namely from 73,200 in 1988 to 126,500 in 1993.

352. Further information on the situation in the education sector in Germany may be obtained from the bilingual (German and English) report for the preparation of the forty-fourth meeting of the International Conference on Education (Geneva, October 1994) attached as annex 6 and from the "Mid-Decade Review of Progress towards Education for All - Country Report Germany" attached in English as annex 7.

On question 2

353. Reference is made to page 198 et seq. of the report attached as annex 6 which was already mentioned in the reply to question 1.

On question 3

354. In Germany illiteracy occurs almost exclusively as "secondary" illiteracy (major reading and writing deficiencies despite school attendance). In contrast, "primary" illiteracy due to a lack of possibilities for school attendance is of no relevance. Statistical surveys or scientifically reliable studies on the extent of illiteracy are not available. Consequently, the assumption of UNESCO that the share of illiterates in the adult German population lies between 0.75 and 3 per cent is not verifiable.

355. The following measures have been taken by the Federal and Land Governments to prevent and combat illiteracy:

(a) Measures to prevent illiteracy:

(i) Pilot scheme and research work on the definition, the extent and the causes of illiteracy and to develop procedures for the identification of "risk children" already at pre-school age;

(ii) Prevention measures at school (especially training and further training of primary school teachers);

(iii) Measures to support elderly pupils with reading and spelling problems and pupils in vocational schools;

(iv) Measures to sensitize, educate and counsel the parents of affected children;

(b) Measures to combat illiteracy

(i) Measures to support young persons in vocational training whose reading and writing capacities are inadequate;

(ii) Language courses for young foreigners (cf. the comments on question 3, art. 6 of the Covenant);

(iii) Literacy courses in adult education centres (1984: 3,400 participants in 250 institutes, 1989 - more recent data are not available - 17,000 participants in 400 institutes);

(iv) Education measures offered by the adult education centres and by other institutes for adult education, and for the acquisition of basic qualifications (cf. p. 176 et seq. of the report attached as annex 8);

(v) Measures to ensure that all those concerned have access to the literacy courses.

On question 4

356. In 1993 the budget spent on education by the Federal and Land Governments and the local authorities in Germany amounted to a total of DM 154,200 million (admission stage, informal education of young people, schools, universities, further education, measures of support such as educational assistance for pupils and students, joint promotion of research by the Federal and Land Governments). This means that in 1993, the education budget accounted for 4.88 per cent of the Gross National Product and for 13.82 per cent of the total public budget of the Federal Republic of Germany; 1.17 per cent of the total public budget was spent on the admission stage and the informal education of young people, 7.13 per cent on schools, 3.74 per cent on universities, 0.39 per cent on further education, 0.72 per cent on measures of support and 0.67 per cent on the joint promotion of research by the Federal and Land Governments.

357. The expenditures of the Länder and the local authorities on education as a whole (not including the admission stage and the promotion of research) amounted to DM 69,400 million in 1980 (old Länder) and to DM 112,800 million in 1993 (old and new Länder). The expenditures of the Federal Government amounted to DM 4,100 million in 1980 and to DM 6,700 million in 1993.

On question 5

358. Concerning sub-questions (a) and (b): Statistics about the participants in educational measures broken down by sex and by Germans and foreigners are only available for the fields of schools and vocational training.

As regards schools, the situation was as follows in 1994:

Type of school	Pupils (Germans and foreigners)			Foreign pupils		
	total	male	female	total	male	female
Nursery classes	42 001	22 632	19 369	7 577	4 030	3 547
Special admission classes	44 467	2 393	16 074	9 992	5 811	4 181
Primary schools	3 558 906	1 813 958	1 744 948	344 448	176 981	167 863

Type of school	Pupils (Germans and foreigners)			Foreign pupils		
	total	male	female	total	male	female
Orientation level not attached to a particular type of school	374 908	193 833	181 075	29 040	15 290	13 750
General secondary schools	1 113 433	619 736	493 697	214 169	114 335	99 834
Integrated classes for pupils of general and intermediate secondary schools	359 244	197 721	161 523	2 179	1 163	1 016
Intermediate secondary schools	1 141 326	556 398	584 928	76 961	36 847	40 114
Upper secondary schools	2 148 702	986 009	1 162 693	84 700	40 344	44 356
Integrated comprehensive schools	489 120	257 711	231 409	57 102	29 747	27 355
Rudolf-Steiner schools	60 979	29 279	31 700	1 311	633	678
Special schools	382 946	243 431	139 515	53 856	32 571	21 285
General secondary schools (evening classes)	1 150	552	598	469	257	203
Intermediate secondary schools (evening classes)	11 590	5 959	5 631	2 855	1 590	1 245
Upper secondary schools (evening classes)	17 575	7 965	9 610	1 708	904	804
Grammar schools for adults	14 082	6 674	7 408	492	255	237
Total	9 760 429	4 970 251	4 790 178	887 246	460 758	426 488

359. Broken down by sex and by Germans/foreigners, the number of trainees was as follows in the training year 1994:

Total (Germans and foreigners)	1 579 000
Male	923 000
Female	656 000
Foreign trainees (male and female)	125 900

360. Concerning sub-question (c), reference is made to the report mentioned in the reply to question 1 (annex 8).

361. Concerning sub-question (d): In contrast to the administrative sector and the judiciary, the education sector is not governed by corresponding legal provisions on the language of instruction. As a rule, German is the language of instruction at schools offering general education, at vocational schools and at universities. The exceptions in the field of schools include a number of private schools and all bilingual schools and classes as well as teaching in the mother tongue and supplementary teaching in the mother tongue for foreign pupils who do not yet have a sufficient knowledge of the German language.

362. Instead of the public schools offering general education the children of the Danish minority in Schleswig-Holstein may attend private substitute schools if, in terms of their educational objectives, these private schools largely correspond to the school types provided for by the Schleswig-Holstein School Act. Teaching is bilingual at these schools. The parents are free to decide whether their children should attend schools of the Danish minority. The parents are only required to contact the locally competent public primary school to furnish proof of their child's admission to a school of the Danish minority and thus notify the public primary school of the child's non-attendance.

363. The children of the Sorbian minority in the German-Sorbian region in Brandenburg (about 20,000 members) and Saxony (about 50,000) are taught Sorbian as their mother tongue, as a second language or as a foreign language, in Sorbian and other schools. At universities, too, the general rule is that the courses are given in German. An applicant who does not have a university entrance qualification from an education institute based on German has to furnish proof of an adequate knowledge of German. A certain knowledge of foreign languages may be required for admission to individual universities or subjects. In research institutes, however, the exclusive use of a non-German language is permitted in accordance with the basic right of the freedom of science (art. 5, para. 3, GG).

<u>On question 6</u>

364. In the Federal Republic of Germany teachers are as a rule civil servants of the Länder. Their welfare, which includes their remuneration, is governed by the legislation applicable to all civil servants and is regularly adjusted to take account of changes in the cost of living. The material conditions of teachers may thus be regarded as fairly secure when compared with those of other professional categories.

365. As regards further training and continuing education (which are partly compulsory for teachers), the participation of teachers and their associations in the formulation of new educational plans and in other school matters, reference is made to the relevant comments in the report mentioned in the reply to question 1 (annex 8, pp. 165 and 180-188).

On question 7

366. In Germany the right to establish private schools is guaranteed by the Basic Law. The basic rights also include the right of parents to decide upon the way in which they wish to bring up their children. This includes the free choice of a school, which may be a private one. However, children of school age may only attend private schools which are publicly approved schools (substitute schools). The public approval ensures that the school employs only qualified teaching staff and that the educational objectives and certificates are equivalent to those of the corresponding type of school in the public sector. This does not mean that such private schools are strictly bound by the timetables and curricula of public schools. A private school may pursue educational aims of a religious or ideological nature and use teaching methods of its own.

367. Such private schools are granted substantial financial assistance by the Länder. A prerequisite for this assistance is that the school accepts children from all sections of the population regardless of the parents' income. In Germany the share of private schools of schools offering general education amounted to 4.7 per cent (2,036 schools), and their share of vocational schools to 13.5 per cent (1,228 schools) in 1994.

368. In addition to the establishment of private schools, it is possible in two Länder of the Federal Republic of Germany (Lower Saxony and North Rhine-Westphalia) to run public schools as denominational schools if this is requested by a sufficiently large number of parents. This applies, however, only to primary schools, attendance at which is compulsory for all children, and to general secondary schools, which are compulsory for all children who do not attend any other type of secondary school. In all other Länder denominational schools exist only as private schools.

On question 8

369. Since the submission of the second periodic report on the implementation of articles 13 to 15 of the Covenant, no changes of this kind which would have negatively affected the right enshrined in article 13 have occurred.

On question 9

370. This question is not relevant to Germany.

I. Article 14 - Compulsory education free of charge for all

371. As described in the comments on article 13, compulsory education free of charge for all is guaranteed in Germany. Consequently, there is no need to report on article 14.

J. Article 15 - The right to take part in cultural life, to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

On question 1

372. Active participation in artistic and cultural life by the greatest possible number of people and the removal of any obstacles to such participation are among the main cultural and educational policy objectives of a democratic society. The primary objective, apart from respect for the freedom of art - which is a basic right guaranteed by the Constitution - is to contribute, through suitable incentives, to the protection and preservation of the cultural heritage and to nurture and develop the creative forces in society while encouraging and facilitating civic participation in cultural life. Art and culture become constituent elements of the social fabric only if they are integral parts of general education - hence the indissoluble link between education and culture. The decision to take part in cultural life has to be taken by each individual, however; in a free society, the cultural forces should primarily develop independently and fully appreciate their specific responsibility. However, a diverse and varied range of cultural activities is publicly supported, and last but not least these activities benefit from the favourable conditions created by the federal structures and by the commitment to culture of the municipalities.

On question 2

373. The freedom to pursue scientific research and to disseminate its results is guaranteed by the Basic Law of the Federal Republic of Germany and secured by the legal and factual structures of research in Germany.

374. The Federal Republic of Germany is internationally acknowledged to be one of the leading nations in the world in the field of research; this applies both to public and private expenditures on research and to the recognition of the high level achieved in all essential disciplines. In this context, measures to promote a healthy and clean environment are of great importance.

375. Furthermore, the observations made in the initial report on the implementation of articles 13 to 15 of the Covenant are still valid.

376. Germany is a member of all the major multilateral research organizations, in particular those within the United Nations; it has entered into bilateral intergovernmental agreements on technical and scientific cooperation with over 40 States, thus contributing to international exchanges in all spheres of research and technology in an active and intensive way.

On question 3

377. The obligation laid down in article 15 (1) (c) of the Covenant to recognize the right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author is met by Germany in the following - briefly summarized - way:

378. Protection by the Constitution. In accordance with the rulings of the Federal Constitutional Court which has been set up as the supreme guardian of the Constitution in Germany, the copyright is property within the meaning of article 14 of the Basic Law. This means on the one hand that the author's work is protected as intellectual property against interventions in relation to its contents or form, and on the other hand that he has the right of exploitation and that he is, as a rule, entitled to financial participation in cases where his intellectual property is utilized by third parties for economic gain.

379. Copyright. The author's rights are regulated in detail by the Copyright Act of 9 September 1965. The Act protects the author of literary, scientific or artistic works "with respect to his intellectual and personal relations to the work and also with respect to the utilization of the work" (s. 11 of the Copyright Act).

380. In the context of the moral rights of the author which relate to the intellectual and personal relations of the author to his work, various individual rights are reserved to the author such as the right to decide upon the dissemination of the work, the right of recognition of authorship, the right to prohibit any distortion or any other mutilation of the work, the prohibition of modifications and the right of access to existing copies, the obligation to indicate the source whenever quotations are used as well as the right of revocation by reason of changed conviction and limitations on judicial execution.

381. The Act provides that the author has the exclusive right to exploit his work in material form, e.g. by means of reproduction and distribution, or to publicly communicate his work in non-material form (by recitation, performance, radio or television). The author may grant a licence to another to utilize his work for economic gain. If he has granted such a licence on conditions "the effect of which is to cause the agreed consideration to be grossly disproportionate to the income from the use of the work, having regard to the whole of the relationship between the author and the other party" the latter is required, upon request of the author, "to assent to such a variation of the agreement as will secure for the author an equitable share of the income having regard to the circumstances" in accordance with article 36 of the Act.

382. In Germany the author's rights are to a considerable extent administered in trust by collecting societies whose rights and obligations are regulated in the Copyright Administration Act. In many cases, the individual owner of rights is no longer in a position to exercise individual control. Moreover, collecting societies also act as contact points for users who want to make use of the works of a large number of authors whom they do not know individually.

383. Limitation on copyright. The author's rights are subject to certain restrictions, however, which are laid down in the Copyright Act and meant to take account of legitimate public interests. Like any absolute right, the copyright, too, is linked to a social environment and, in the interest of the community, subject to certain restrictions. The Copyright Act regulates the limitations on copyright with definitive effect. As a rule, they are to be interpreted in a narrow sense and may only be imposed on the basis of the

principle that the copyright is linked to a social environment. Apart from the freedom to quote and utilization for the purposes of the administration of justice and public safety, the main cases include reproductions for one's personal use and the public communication of protected works for non-commercial purposes. All restrictive provisions stipulate that the protected works may be exploited to a certain extent without the author's consent. In some cases, however, a remuneration is payable to the author for such exploitation, e.g. for the private reproduction of protected music. The restrictions on copyright laid down by law do not affect the moral rights of the author.

384. Protection in case of infringement of rights. In accordance with sections 97 et seq. of the Copyright Act, an author whose copyright has been infringed may bring an action under civil law for injunctive relief requiring the wrongdoer to cease and desist as well as an action for damages, and he may require the destruction or delivery of copies that have been unlawfully manufactured. A person who unlawfully infringes copyright may also be prosecuted under criminal law in accordance with sections 106 et seq. of the Copyright Act. Furthermore, copyright may be transmitted by inheritance and expires only 70 years after the author's death.

385. Because of the Copyright Act which, when compared with other laws, counts among those with the most favourable provisions for authors, the Federal Republic of Germany may claim to have met the requirements of article 15 (1) (c) of the Covenant in a particularly far-reaching way.

386. International protection. Section 7 of the Copyright Act provides that "the person who creates the work" holds the copyright. Foreign nationals who are nationals of EU member States or of States parties to the European Economic Area (EEA) agreement have equal status with German nationals who enjoy copyright protection with no need to meet further requirements. In all other cases further prerequisites have to be met in accordance with the provisions of the Copyright Act on foreign nationals. In practice, however, the international conventions on copyright are of paramount importance; they include, for instance, the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886 and the Universal Copyright Convention of 6 September 1952, both of which are characterized by the principle of national treatment so that in the end, a foreign author is treated in the same way as a national one. Germany, which has ratified these and numerous other international instruments for the protection of copyright, plays an active part in the effort to realize the "protection of the moral and material interests" of the authors of scientific, literary and artistic works beyond the national borders.

387. Thus Germany is also bound by the obligations resulting from the Agreement on Trade-related Aspects of Intellectual Property (TRIPS) which is part of the World Trade Organization Agreement and which contains specific provisions on copyright in Part II, chapter 1. As a member of the European Union, Germany is of course also involved in the harmonization activities at that level. The Directive on the legal protection of computer programs, the Directive on hiring and lending laws and on certain protective rights in the field of intellectual property related to copyright and the Directive on the harmonization of the duration of copyright and certain

related rights have already been transposed into German law. The transposition of the Directive on the coordination of certain copyright and ancillary copyright provisions concerning satellite broadcasting and the further extension of the cable network is under way.

388. The future legislation of Germany will be aimed at safeguarding the level of protection achieved by the German copyright law. This is why the Federal Government is following with great attention the most recent developments attributable to digital technologies in order to see to it, by taking the measures which prove to be necessary, that authors will receive an equitable share of the income from the use of their intellectual property now and in the future.

On question 4

389. In Germany cultural policy comes within the jurisdiction of the Länder and is highly decentralized. It is first and foremost the responsibility of the Länder and of the municipalities and only to a limited extent that of the Federal Government.

390. Pursuant to the Basic Law of the Federal Republic of Germany the Länder are responsible for the exercise of all governmental powers and the discharge of all governmental functions that the Basic Law has not vested in or entrusted to the Federal Government. In the cultural sphere, the Federal Government has only a small range of tasks; in addition to foreign cultural policy, which is part of foreign affairs, they include above all protecting German cultural property from being transferred out of the country, preserving the Prussian cultural assets, copyright and the promotion of cinematographic works. Furthermore, the Federal Government has limited funds to contribute to the financing of certain cultural activities. In accordance with the Basic Law, the municipalities have the right to take care of all matters of local interest within the framework of the laws and under their own responsibility. Traditionally, the municipalities have availed themselves of this possibility and demonstrated a considerable degree of commitment to culture. Moreover, the constitutions of several Länder stipulate that, in addition to the Federal and Land Governments, the municipalities should also encourage the arts and engage in cultural activities.

391. The public support given to culture aims, inter alia, at preserving the cultural heritage, at nurturing and developing the creative forces in society and at ensuring the participation in cultural life of the greatest possible number of people by means of a range of diverse and varied cultural activities. Accordingly, more than half (about 54 per cent) of the public expenditure on culture was met by the municipalities, about 39 per cent by the Länder and about 7 per cent by the Federal Government in the year 1992, for example. In that year public expenditure on art and culture amounted to roughly DM 15,800 million, i.e. almost DM 200 per inhabitant and about 1.0 per cent of total public expenditure. After having accounted for approximately 0.8 per cent of total public expenditure for many years, a rise in the share of public expenditure on culture has been discernible since 1985 in spite of the strain on the public purse caused by the deterioration of the economic situation. This very fact demonstrates a higher political ranking of culture within the hierarchy of governmental functions. Both the Federal

Government and the Land governments are convinced that it is increasingly important to develop not only the rule of law and the social dimension but also the cultural dimension of the State.

392. The expenditure goes towards maintaining, developing and expanding cultural institutions and activities and is thus a means of promoting the active participation of each citizen in cultural life. Sociocultural activities whose major objectives include the task to facilitate access to art and culture by removing any reluctance or hesitation to get acquainted with this sphere are of particular importance in this context.

393. In Germany public funds to develop and promote culture are traditionally used in two different but complementary ways:

(a) For cultural institutions owned by the State and the municipalities;

(b) For subsidies and support given to communities, i.e. private institutions and activities.

This is also true for the arts.

394. In the Federal Republic of Germany pluralism, i.e. a wide range of diverse activities in cultural life, is facilitated by the federal structure of the country which makes it possible for a large number of autonomous bodies and institutions to work side by side in the cultural sector. This decentralized structure is conducive to a great cultural diversity, and it has, for example, led to a well-developed regional network of public theatres (157), museums (4,827) and public libraries (about 13,500) (the figures are as of 1993/94).

395. As far as the performing arts (theatre and music theatre) are concerned, public institutions are predominant although almost all private theatres receive public subsidies, too. In the field of music, the commercial or private sector is considerably larger than in the sphere of the theatre. Nevertheless, the State, cities and public broadcasting services maintain about 50 major orchestras (as of 1993/94), there is quite a large number of public music colleges and academies and a nationwide network of music schools for young people run by the municipalities and municipal associations; furthermore, music-making and musical education benefit from a variety of forms of public assistance ranging from subsidies for associations of amateur musicians to support for outstanding talent through competitions and scholarships. In the field of the plastic arts, public measures of support include - in addition to the establishment of arts colleges - above all the purchase of works for public and municipal art collections, the commissioning of works of art by public authorities, scholarships for artists and art prizes. To this add tax concessions and a publicly regulated social health and old-age insurance for artists (in addition, needy artists of outstanding merit receive support from the German Artists' Fund that is jointly financed by the Federal Government and the Länder).

396. Artistic and cultural education has become increasingly important in Germany. Education and the teaching methods employed lay the foundation for

the way in which people perceive, understand, use and actively contribute to art and culture. For example, the museum sector is being expanded. Museums are currently being planned or built in Berlin, Munich and Cologne. In Bonn alone, a large municipal art museum, the art and exhibition hall of the Federal Republic of Germany and a museum to commemorate the history of the Federal Republic of Germany have been built.

397. Over the last few years all Länder in the Federal Republic of Germany have adopted new laws on the protection of monuments which testifies to the increased awareness of the value of the architectural heritage and of the need to protect it; the funds earmarked in the Länder budgets for the protection of monuments have gone up to roughly DM 708 million (1992: DM 623 million). To this are added the funds made available by the Federal and Land Governments and the municipalities for the reconstruction of monuments that are of national importance, for the support of renovation projects and for special programmes, and also funds provided by the churches and by private donors.

398. The first sentence of article 5, paragraph 3, of the Basic Law guarantees the freedom of art in Germany. In accordance with the rulings of the Federal Constitutional Court this freedom protects both the artist and the performer. The basic right contains an essential rule of decisive value and obliges the State, which is committed to culture as a public objective, to the development and promotion of art.

399. Mention should also be made of efforts to improve the situation of artists - irrespective of the freedom of art guarantee. Thus, by virtue of an amendment to the Copyright Act, libraries are now required to pay royalties - financed from public funds - to the collecting societies for the benefit of authors (proceeds in 1994 were about DM 19 million); a wealth of public and private art prizes is meant to give incentives to and motivate the creativity of artists.

On question 5

400. Reference is made to the comments on question 2.

On question 6

401. Principles of foreign cultural policy. The foreign cultural policy of the Federal Government is an integral part of Germany's foreign policy. As an instrument to convey the image of Germany as a cultural nation all over the world in a credible way and to effectively promote matters of cultural policy at all international levels, it performs tasks that serve specific purposes and have a political dimension. It creates the basis for international cooperation at all levels in the cultural, political and economic sectors, cooperation that is characterized by confidence and trust. It is guided by the following principles:

(a) A prime task and permanent objective of foreign cultural policy is the legitimation of the Federal Republic of Germany as a cultural nation in a changing world;

(b) Foreign cultural policy uses the objectives of foreign policy as a guideline. It serves the political integration of Europe and the safeguarding of peace and must contribute to striking a balance between the interests of industrial nations and developing countries;

(c) Foreign cultural policy does not see itself as a one-way "cultural export" of language, science, culture or art but is guided by the principle of cultural interrelations and partnership-based cooperation within the meaning of a mutual enrichment of national cultural traditions;

(d) Foreign cultural policy uses an extended concept of culture comprising all intellectual values. It includes cultural and social relations, scientific and technical cooperation and educational assistance for developing countries.

402. The most important sectoral priorities of the foreign cultural policy pursued by the Federal Government include the following:

(a) Promotion of the German language abroad;

(b) International cooperation in the sector of universities and science;

(c) International exchange of students and scientists;

(d) Vocational training, adult education, international civics education work, exchange of groups of society;

(e) Development and extension of the network of German schools abroad.

403. Cultural institutes and societies. The Goethe Institute, which was described in the initial report on articles 13 to 15 of the Covenant, has its headquarters in Munich and is the largest of the organizations that have been appointed to implement Germany's foreign cultural policy. Its tasks include the cultivation of the German language abroad and the promotion of international cultural cooperation. At present the Goethe Institute maintains 151 cultural institutes abroad, in 78 countries. For its work abroad it receives an annual grant from the Foreign Office. In 1994 this subsidy amounted to DM 299.1 million.

404. The cultivation of academic relations with other countries, especially the organization and promotion of exchanges of researchers and students on non-material and material terms, is the task of the German Academic Exchange Service. To perform this task the German Academic Exchange Service had a budget of DM 363 million in 1994 including DM 320 million from Federal funds, DM 2 million from the Länder and DM 41 million from the EU and other donors. In 1994 the German Academic Exchange Service supported a total of 53,544 persons including 30,127 Germans and 23,417 foreigners.

405. The Alexander-von-Humboldt Foundation is an organization to promote top research. The aim of the foundation is to grant research scholarships and awards to scientifically highly qualified foreign university graduates, thus enabling them to spend some time doing research in Germany. In 1995 the total

budget of the foundation amounted to roughly DM 88 million. The Alexander-von-Humboldt Foundation awards about 500 research scholarships per year to young scientists from abroad.

406. Further organizations which implement the tasks of foreign cultural policy include the Institute for Foreign Relations, the German Music Council, Inter Nationes, the Central Office for Schools Abroad, the German Archaeological Institute, the Carl-Duisberg Society and a number of other smaller institutes and foundations.

On questions 7 and 8

407. These questions are not relevant to Germany.

List of annexes

Annex 1: The major labour statistics results in the old Länder from 1982 to 1994

Annex 2: (a) Table of basic salaries payable to salaried employees in salary categories I to X after age 21, applicable as from 1 May 1995 (public service)

(b) Table of local bonuses (for salaried employees in the public service), applicable as from 1 May 1995

Annex 3: (a) Consolidated surveys - full-time employees in the public service as of 30 June 1992

(b) Consolidated surveys - part-time employees in the public service as of 30 June 1992

In German only

Annex 4: Safety and Health at Work '95

Accident prevention report

In German only

Annex 5: Habitat II (in English only)

Annex 6: Bericht über die Entwicklung des Bildungswesens

Report on the Development of Education 1992-1994

In German and English

Annex 7: Mid-Decade Review of Progress toward Education for All - Summary Profile Sheet for Germany

In English only

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